

LAW ENFORCEMENT NEWS

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What They Are Saying:

"There's a risk in advertising publicly for personnel, because most of those who apply, you do not want."

Highland Park, Tex., Police Chief Henry Gardner, commenting on his department's plans to hire its first bilingual and minority officers. (Page 2:3)

Expert witness says Miami cop violated eight rules in shooting

A criminologist hired by the Dade County, Fla., state attorney's office will testify in the trial of Miami police officer Luis Alvarez that Alvarez violated eight police standards when he shot and killed Nevell Johnson Jr. last December.

Alvarez is scheduled for trial January 3 on a manslaughter charge in the killing of Johnson, which set off several days of rioting in Miami's Overtown section. Johnson was shot in an video arcade when Alvarez allegedly saw him reach for what he believed was a weapon.

George Kirkham, an associate professor at Florida State University who has served as an expert witness in police cases in 38 states, said in a deposition filed by the state that Alvarez violated standard police procedures by cocking his gun and placing it in close proximity to the suspect.

Kirkham stated that Alvarez unlawfully killed Johnson "by the act of placing a firearm, handling a firearm in a grossly negligent manner, contrary to the contravention of all police training, police standards, police procedures, handling that firearm, placing that firearm in such proximity to the suspect to make the out-

come, if not predictable, highly likely."

Asked by defense attorney Mark Seiden what his testimony meant "in plain English," Kirkham said the cocked weapon was placed so close to the suspect that "it would go off very readily."

Ballistics experts who tested the gun have said they cannot determine if it was cocked, but Kirkham said that he has studied 75 police-related shootings and found only two where a double-action revolver that was not cocked fired accidentally.

Kirkham said Alvarez also violated standard procedure by leaving his beat area without permission, leaving his patrol car without notifying police communications, confronting Johnson without telling his partner of possible danger, failing to notify communications when he spotted what he thought was a handgun under Johnson's sweater, placing the muzzle of his revolver within Johnson's reach and leaving the scene without aiding Johnson.

Kirkham was paid \$1,400 a day by the Dade County State's Attorney's Office to study the shooting incident.

13's unlucky in Dallas:

Review set for deadly force

In the wake of a police shooting of a 20-year-old black man, Dallas city officials have announced that they will review the police department's deadly force policy and arrange for an independent review of all 13 fatal police shootings this year.

City officials also said they will seek citizen comment about the police department in an effort to reduce tensions raised in the black community by the shooting.

Both moves came in response to a shooting November 7, in which Cpl. Melvin D. Cozby killed Michael Frost, a black man he was trying to arrest.

Police said Frost jumped Cozby and tried to seize his weapon, and that Frost was shot during the struggle.

Some residents of the area where the shooting occurred have said, however, that Cozby handcuffed Frost, then shot him in the back.

The autopsy report showed that Frost was shot twice in the chest at close range and that there were powder burns on Frost's hands, indicated that he was handling a weapon when it discharged.

In addition, two Dallas County



Dallas Chief Billy Prince

sheriff's deputies said it was they — not Cozby — that handcuffed Frost after the shooting, according to Police Chief Billy Prince.

Black leaders also have criticized the department's handling of the case, asking that Cozby be fired or disciplined. Cozby was reassigned to a new beat

Continued on Page 12

Developing youngsters with Kodak's help:

Teen-patrol program is picture perfect

From a distance, it looks as though the youngsters at the North Street Recreation Center in Rochester, N.Y., are simply splashing about the center's swimming pool. Cooling down from a sweltering summer heat wave, they appear to be free to do as they please.

Upon closer inspection, one individual stands out as the supervisor of this group of inner-city youths. The one distinguishing characteristic that sets him apart: an official-looking, bright yellow T-shirt with the letters "T.O.P." emblazoned within a police shield.

TOP, an acronym for Teens on Patrol, is one of the most readily recognized and widely respected organizations of its type among Rochester young people. The program stands out for at least two reasons: its longevity — it has just completed its 17th summer of youth employment — and its uninterrupted record of private funding from the Eastman Kodak Company, Rochester's largest employer.

Mike, the TOP keeping an eye on the group at the pool, is doing his job in the manner that suits him best: easy-going, quiet, but always in authority. His style is indicative of the way the program runs with the 105 members of the Teens on



Members of Rochester's Teens on Patrol program, Christina Rivaldo and Jimmy Johnson, share a lighter moment with young swimmers at the Norton Village Recreation Center.

Eastman Kodak Company

Patrol.

They supervise, counsel, teach and coordinate with a firm, experienced hand. It's not surprising, since just a few years ago many of these same teenagers were

growing up on the streets of Rochester. As a result, they're familiar with what it takes to maintain a safe and productive neighborhood.

Continued on Page 7

A new look for the new year

As a way of increasing service to our readers, Law Enforcement News will be undergoing a number of changes beginning with the first issue of 1984.

To begin with, the paper will be expanded to 20 pages each issue, in order to broaden our news coverage and incorporate several new features. Among the new additions to LEN will be "Around the Nation," a page of capsule news items from all over the United States. Whether the news comes from a large, full-service agency or a small rural area, you'll find it in "Around the Nation" — in a concise format that gives you the facts at a glance.

Another exciting addition to the pages of LEN will be "Forum," a section of commentary and opinion from outspoken observers in all areas of criminal justice. In recent times, more than just a few individuals have called for an increase in professional debate among law enforcement practitioners and scholars. LEN's new "Forum" section is the place you'll find it.

To top things off, the paper has undergone a major revision in design and graphics, which, we trust you will agree, will make the paper more readable (if you're in a hurry) and more attractive (if you have the time to linger over each issue).

Keep an eye on the mailbox for the January 9 issue. We think you'll like what you see.

— The Editor

...NewsBriefs...NewsBriefs...NewsBriefs...

MSU researcher urges cops: 'Get out of the car and walk'

A Michigan State University criminologist who has been studying the role of police in contemporary society has found that citizens have more trust and rapport with foot patrol officers than with motorized police.

Robert Trojanowicz, director of the National Neighborhood Food Patrol Center at MSU, said foot patrol officers are more likely to receive information about crimes than are officers in cars.

"Because foot patrol officers make face-to-face contact with the public, they're able to act as community organizers, dispute mediators and links between the community and local social service agencies," he said.

Trojanowicz said some police officers, administrators and special interest groups are resistant to foot patrol. He said officers feel that foot patrol places

them in the role of social workers or that foot patrol is a punishment. Administrators often dislike the idea because officers on foot patrol become community advocates, he said.

"The officers start knocking on administrators' doors, saying 'Get the garbage picked up for my people' or 'They need better bus service on the south side.'"

He added "There is still a pervasive misconception about foot patrol. Most people don't realize yet that these officers can very effectively prevent and solve crime by acting as community service brokers in partnership with the community."

The news from Newport News: Anti-DWI drive gets \$21G boost

The Newport News, Va., Police Department has received a \$21,000 grant that will allow it to crack down on drunken driving, and city officials say they hope the grant will help them counter criticism stemming from a 40 percent decline in drunken driving arrests this year.

The grant, awarded by the National Highway Traffic Safety Administration, will be used to pay officers to work weekends, concentrating on drunken drivers. Two officers will patrol on Friday, Saturday and Sunday nights, looking for drunken drivers.

The stepped-up patrol is expected to help Newport News reverse the downward trend in drunken-driving arrests. In 1982, Newport News police had the state's highest per capita drunken-driving arrest rate, averaging 232 arrests a month.

Eight Texas cycle cops win \$43M judgment from Kawasaki

Eight Houston area police officers have been awarded \$43 million in damages for injuries they received when their Kawasaki motorcycles crashed during high-speed chases.

During the trial, experts testified that the crashes, all of which took place between 1976 and 1981, occurred when the motorcycles went into uncontrollable wobbles at high speeds. An attorney for the officers said riding the cycle was like "riding a time bomb."

The officers argued that Kawasaki sold the police motorcycles that could not bear the weight of radio equipment and that were unstable because windshields were mounted on the front wheel forks.

Jurors awarded \$7.6 million in damages to the eight officers, including \$3 million to officer B. J. Dragna, who was hospitalized for 186 days after a crash in 1977 and who now has plastic kneecaps. The damage awards will be tripled under the Texas Deceptive Trade Practices Act.

The jury also awarded \$20 million in punitive damages. Kawasaki officials are expected to appeal.

NAACP chapter tells city: Put gang parents on payroll

The Evanston, Ill., chapter of the National Association for the Advancement of Colored People has proposed that city officials pay parents of street gang members \$100 a week to make their children obey the law.

Coleman Miller, president of the Evanston chapter, recommended that

the city identify parents of the 100 most active gang members and pay them \$100 a week for up to nine months if their child "conducts himself or herself in acceptable social standards."

Miller's proposal said the plan would "lead to a permanent and lasting solution. We would be the first city to eliminate a gang problem." It included provisions for parents to be fined \$50 for failure to obtain a permit to hold a party for youths under 18 and for curfews of 9 P.M. on weekdays and 11 P.M. on weekends for youths.

City leaders called the plan unworkable, saying it would cost \$1 million a year. "I don't intend to subsidize gangs and that's what this proposal would do," Mayor James C. Lytle said.

Lytle said he supports levying fines of up to \$500 for parents whose children violate the existing curfews of 11 P.M. weekdays and midnight on weekends or who break alcohol or drug laws in the parents' home.

Embattled Highland Park set to add first minority officers

The Dallas suburb of Highland Park, which three months ago settled a Justice Department investigation into charges of harassment against minorities, is ready to hire its first bilingual and minority officers.

The Justice Department dropped a two-year inquiry into charges that police had stopped minority persons without reasonable cause after police officials agreed to make several changes in the arrest policy in September.

In a meeting last month to discuss the department's operation since that agreement, Police Chief Henry Gardner told the Highland Park Town Council that recruiting minority officers is one of the department's biggest problems.

The town of 8,900 residents has never had a black or Hispanic police officer.

"We have quite a few arrests of Mexican people, and the officer is at a loss if he cannot communicate with the offender," Gardner said. "We are trying to hire a few people who are bilingual, although not necessarily of a certain race."

Although Gardner said he needs bilingual or minority officers, he said he does not want to advertise the positions.

"There's a risk in advertising publicly for personnel because most of those who apply, you do not want," he said.

MD needles public perception that lethal injection is humane

The growing acceptance of lethal injection as the preferred form of capital punishment may be based on a mistaken belief that injections are more humane, according to doctors at the American Public Health Association.

Dr. Ward Casscells, a cardiologist at Harvard University Medical School, told the association's annual meeting that injections may in fact be more painful than electrocution.

"Lethal injections are not as easy to give as a tetanus shot. The person getting the injection often does not go to sleep quietly. A lot of pain can be involved," Casscells said.

Casscells said one of the major problems with lethal injections is finding a vein large enough to insert the intravenous line. He said doctors sometimes must make several attempts to find a vein in a cooperative patient, and finding such a vein in a prisoner who is resisting or who has used drugs would be even harder.

He said that when a suitable vein cannot be found, doctors are called in to perform a minor surgical procedure so that a catheter can be inserted into large veins in the neck.

On the other hand, Casscells said, studies done in England indicate that condemned prisoners who are electrocuted lose consciousness immediately.

Five-year-old force bulldozer do-it-yourself headquarters

The police department in Sachse, Tex., had no headquarters of its own, but it did have \$13,000 from the town. So the four regular officers and 11 reservists built their own.

The five-year-old force had previously been operating out of a cramped, 1,500-square-foot back room at City Hall.

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Avoiding the issue

These six men, members of the Corona, Calif., Police Department, were spending extra time in Lake Havasu, Ariz., last month, in an effort to avoid being served back-to-work orders by the city. Most members of the department went out on strike on November 18. Pictured at right are Lieut. Fred Biggs, Officer Les Scott, Sgt. Art DeLaCruz, Lieut. Larry Thayer, Officer Alex Marmolejo and Sgt. Terry Gustin.

Wide World Photo



Adventures in paradise...

Pacific island cops visit Alaska to train

Thirty-four police officers from the Trust Territory of the Pacific Islands, a U.S. territory made up of more than 2,000 islands just north of Guam, have completed a three-month training program — in Alaska, of all places — as part of a five-year plan to improve law enforcement on the islands.

In the first stage of the program, the most promising officers from each of four regional governments on the islands receive extensive training at the Alaska Department of Public Safety training academy on the rugged Baranoff Island in southeast Alaska.

The officers were trained in defensive tactics, target practice, detective work, trial preparation, boat boardings and provisions of local law.

The training was funded jointly by the Department of the Interior, which ad-

ministers the islands, and the four governments of the islands known more commonly as Micronesia.

Micronesian officials also plan to send chief executive officers from the police forces to the FBI National Academy for 11 weeks of middle-management training, including more technical instruction in the areas such as fingerprinting techniques and identification.

In 1985, Micronesia will establish its own training academy with the help of instructors from Alaska. Micronesian instructors are expected to assume training responsibilities within a year.

Janet McCoy, commissioner of the Trust Territory, said the extensive training program is designed to help the emerging island governments, which have been working toward independence from the U.S. for 13 years, become self-

sufficient. In other moves toward independence, the island governments also have received training for financial accounting and training for their disaster assistance offices.

An assistant to McCoy, Neiman Craley Jr., said the Alaskan training venture was successful. "I believe that our Micronesian officers greatly benefited from this experience and exposure," he told the Guam-based newspaper, *Commonwealth Focus*. "Without question, the program was well worth the time, effort and funding."

The director of the Micronesian Bureau of Investigation, Bryan J. Vila said Alaska was chosen for the training because Alaskan police face many of the same problems as do Micronesian police, such as covering a large area with a small force and telephone, transportation and second-language problems. The Trust Territory has a total population of 130,000 people and is 1,500 miles from Japan.

He said the Micronesian officers did well — with almost half of them scoring above 90 percent on the comprehensive final examination. "They learned to work together in a very difficult environment. In spite of the fact that we worked them long and hard, they demonstrated the fortitude, toughness and self-discipline required to be a successful policeman anywhere in the world," Vila said.

Chicago hikes retirement age for cops to 70

Chicago has raised the mandatory retirement age for police officers and firefighters from 63 to 70, and city officials say the change could cost the city millions of dollars.

The new retirement age was adopted as an outgrowth of a U.S. Supreme Court ruling last March that said Federal age discrimination laws apply to law enforcement agencies unless "age is a bona fide occupational qualification reasonably necessary to the normal operation" of the agency.

The change means that officers forced to retire in the last three years might be able to regain their jobs, according to John Dineen, president of the Fraternal Order of Police.

The Chicago City Council has set aside nearly \$4 million in the 1984 budget for salaries for officers who decide not to retire and those who return from retirement.

But Dineen and police officials say they don't expect most officers to exercise their option to stay on the job until age 70.

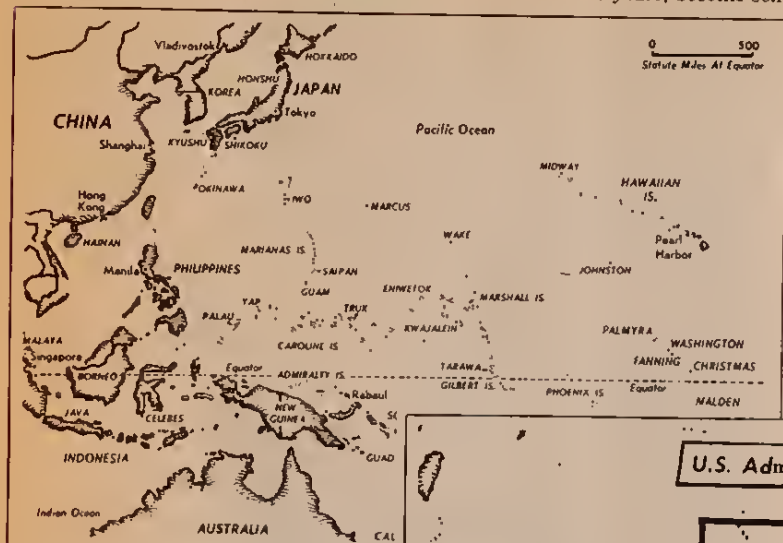
"The overwhelming number of police officers are looking for an early retirement rather than looking to work to the age of 70," Dineen told the *Chicago Tribune*.

Deputy Police Superintendent Dennis Nowicki said the department is working to devise an agility test to be given routinely to all officers to insure that they meet physical requirements for the job, since age can no longer be used to determine fitness.

On- and off-campus

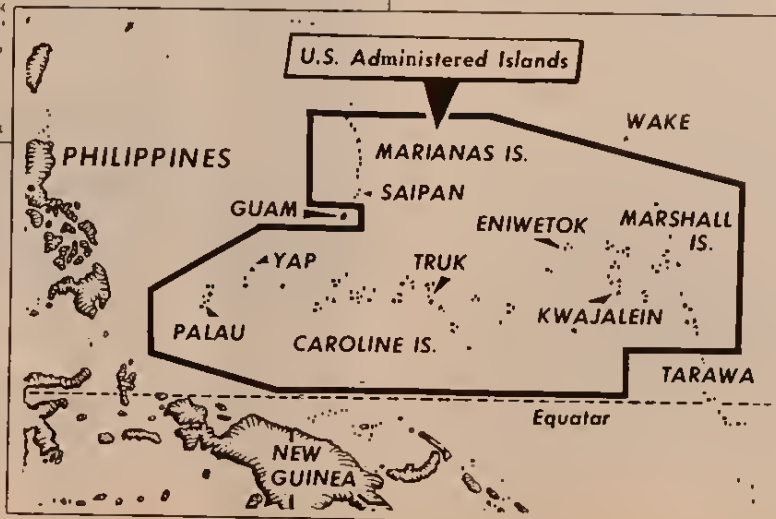
Forty-eight members of the campus police force at Northeastern University in Boston were sworn in as Suffolk County deputy sheriffs last month, in an effort to extend their police powers beyond the university's property lines.

The university's director of public safety, D. Joseph Griffin, said he asked for deputy status for his officers to protect them from civil liability. "Without this protection they act as private citizens," Griffin said.



The Trust Territory of the Pacific Islands lies to the east of the Philippines in the map above. The close-up at right identifies the principal islands in the three-million-square-mile territory.

Wide World Photos



People & Places



One brief shining moment

Former Dallas Police Officer M. N. McDonald shows how he disarmed Lee Harvey Oswald a few hours after the Kennedy assassination in 1963. McDonald, who retired in 1980 and now lives in Hot Springs, Ark., still has the handcuffs that he used in the Dswald arrest.

Wide World Photos

A commanding presence

Col. Thomas A. Constantine has been named deputy superintendent of the New York State Police in charge of field command. The 21-year veteran of the state force will lead 3,600 uniformed troopers and the members of the Bureau of Criminal Investigation.

Constantine, who had been serving as assistant deputy superintendent for

employee relations, succeeds Donald G. Brandon, who announced his retirement.

The new field commander holds bachelor's and master's degrees from the State University of New York, and is in the process of completing requirements for a doctorate in criminal justice at the State University's Albany campus.

Talking turkey at 1500 feet

Two members of the Florida Highway Patrol managed to avert a mid-air disaster recently after the Cessna 172 in which they were flying collided with a

large bird, believed to have been a water turkey.

While cruising at 1,500 feet on a flight from West Palm Beach to Clewiston, the bird struck the left side of the windshield and penetrated the plexiglass. The force of the impact scattered debris — pieces of the windshield and the turkey — throughout the cabin, striking both pilots. Both Trooper David Bramlett and Corporal Barry Adriance were only slightly injured.

The director of the Highway Patrol, Col. Bobby R. Burkett, praised two troopers, saying their skill in controlling the unstable aircraft "averted a tragedy."

Go east, young man

San Antonio Police Department has its first Hispanic police chief, Charles M. Rodriguez of the Los Angeles County Sheriff's Department.

Rodriguez, who served with the L.A. sheriff's department for 26 years, took over in San Antonio November 14. He won the job over a deputy chief within the department.

New York's new No. 1 picks his No. 2

Patrick J. Murphy, the chief of operations for the New York City Police Department, has been named its new first deputy commissioner.

The promotion was the first made by newly appointed Commissioner Benjamin Ward, who has said he will not make sweeping changes in the department's hierarchy. "I don't believe in revolution, but evolution," Ward said.

Murphy, 50, was the force's highest ranking uniformed official and had been considered a contender for the commissioner's job. A 28-year veteran of the

department, he will replace William J. Devine, who has said he will resign when Commissioner Robert J. McGuire steps down at the end of the year.

Ward, who has the power to appoint all six of the department's deputy commissioners and all supervisors above the rank of captain, called Murphy's appointment "my first and most important appointment." While stating that some supervisors may want to leave with McGuire, he said that any who want to stay will be allowed to remain "for a period."

Radio DJ Sox it to chief in winning bet

Police Chief Edmund H. Mosca of Old Saybrook, Conn., had a friendly bet with his friend Joe D'Ambrosio, the host of a local radio program, over this year's baseball standings.

If the Boston Red Sox had finished ahead of the New York Yankees, D'Ambrosio would have spent a Sunday morning directing traffic.

But the Red Sox finished 13 games behind the Yankees, so instead of gloating over his friend doing a cop's job, Mosca spent a few hours playing records,

giving out the correct time and discussing the weather on the WLIS "Midday" show.

The station's music director, Divinna Mackenzie, gave the chief's show good marks. "I think it's great. He's perfect for radio."

Mosca's music selections included "Johnny Cash at Folsom Prison" and the soundtrack from the movie "The Sting." He did not, however, play music by the rock band The Police.

Kentucky breaks ground with woman sheriff

In last month's elections, Kentucky not only got its first woman governor, but also its first woman sheriff who does not succeed her husband.

Deputy Sheriff Carole Wheeler of Gallatin County easily defeated Republican Clifton Higgins for the right to fill the unexpired term of Sheriff Delmar Alexander, who died in December. The vote was 1,390 to 419.

Jefferson County Sheriff Jim Greene, president of the Kentucky Sheriffs Association, said he knew of no other woman who was elected sheriff except to succeed her husband.

Alexander's son, Barry, had served as acting sheriff but did not seek election. Wheeler defeated five other Democrats last spring to win her party's nomination and go on to the November contest.



The bonds of matrimony

Minneapolis Police Chief Anthony Bouza, like any other husband, has pictures of his wife to show friends — with one exception. The pictures Bouza holds here show his wife, Erica, arriving at the Hennepin County, Minn., Workhouse to begin serving a 10-day jail term for her part in an anti-war protest last month. Bouza, who had said he would visit his wife, noted, "At my age, conjugal visits aren't necessary."

Wide World Photo

= SUPREME COURT BRIEFS =

By AVERY ELI OKIN



Anyone who has ever had the opportunity to visit the Supreme Court cannot help but be overwhelmed by its sheer beauty. The perfectly proportioned courtroom has marble columns on three sides, and two-story velvet drapes provide the front of the courtroom with a majestic aura.

As befits such a dignified setting, there is a reverent stillness that pervades the room when the Court is in session. Those in the press box speak in hushed tones, if at all. And, lest anyone in the audience section disturb the decorum, there are the ever-present Supreme Court police officers on duty.

While the members of the Court are not immune from reprimand by members of Congress for their controversial decisions, nor from street demonstrations outside the Court building, the courtroom itself has remained a place undefiled by outbursts of emotionalism.

That is, until last month.

During the first week of November, Larry Flynt, publisher of *Hustler* magazine, and a self-proclaimed candidate for President, dismissed his attorney one week prior to the scheduled oral argument date in the libel case of *Keeton v. Hustler Magazine Inc.*, No. 82-485.

Denied the opportunity to present the oral argument in the case himself, Flynt allegedly screamed from his wheelchair, "F--k this court. You denied me the counsel of my choice."

According to observers of the incident, a red-faced Chief Justice Burger allegedly said: "Inform the marshal to take that man into custody." The Court's police officers quickly removed Flynt from the room.

Shortly after the incident, Flynt was brought before a U.S. magistrate, the Hon. Jean F. Dwyer. (Federal magistrates provide support for the District Court judges and usually preside at the preliminary stages of the Federal criminal cases.) Apparently chastened, Flynt told the magistrate, "I would like to apologize to you...and also to the Supreme Court."

Notwithstanding this verbal assault, the Supreme Court Justices, though visibly taken aback, continued on with the next case on the calendar. No adjournment had to be taken, and even the marble columns seemed unblemished by the intensity of one man's emotional outburst.

Also noteworthy during the month of November was the Court's announcement of a decision upholding a law used by Federal prosecutors in dealing with arson for profit and other racketeering cases. Earlier this year, the U.S. Court of Appeals for the Sixth Circuit broke new ground in the area of police use of deadly force on fleeing felons. Those two decisions are reviewed below.

Deadly Force — Fleeing Felons

A three-judge panel of the United States Court of Appeals for the Sixth Circuit struck down as unconstitutional a Tennessee state statute that permitted police officers to employ deadly force to prevent a fleeing felon from escaping arrest, notwithstanding the nature of the underlying felony.

The offensive Tennessee statute,

'A statute that makes no distinctions based on the type of offense or the risk of danger to the community is inherently suspect.'

codified at T.C.A. §40-808 (1975) read in relevant portion: "If...the defendant...either flee[s] or forcibly resist[s], the officer may use all the necessary means to effect the arrest." Interpreted under the common-law view, the statute permitted and even encouraged police officers to shoot unarmed felons whom the officers were unable to capture by any other means.

The case at hand arose on the night of October 3, 1974, when an unarmed 15-year-old boy broke into an unoccupied residence in a suburb of Memphis. Two police officers, summoned to the scene by a neighbor, attempted to intercept the youth as he ran from the back of the house to a six-foot cyclone fence. Unable to reach the youth, one of the officers shined a flashlight on the boy, who was crouched by the fence. Simultaneously the officer yelled "Halt."

From his vantage point, the officer with the flashlight conclusively observed that the youth was unarmed. Suddenly the youth attempted to jump the fence. Pursuant to the training given by the Memphis Police Department, one of the officers took aim at the upper portion of the youth's body and fired a 38-caliber pistol loaded with hollow-point bullets. The boy died of a single gunshot wound. Found on his person at the scene were ten dollars in cash and jewelry he had taken from the house.

The father of the deceased youth

brought an action under Title 28 U.S.C. §1983, seeking damages against the offending police officers, their department and the City of Memphis for the wrongful death of his son. Following lengthy proceedings in both the Federal district and appellate courts, the officers were found not to be civilly liable because they "were protected by the doctrine of qualified immunity because they acted in good faith reliance on T.C.A. §40-808."

Approaching the question of the City's liability and the questionable constitutionality of the Tennessee statute, however, Chief Judge Edwards and Circuit Judges Keith and Merritt utilized a novel Fourth Amendment analysis. Writing for the unanimous panel, Judge Merritt noted that the Fourth Amendment has been interpreted to mean: "A person is 'seized'...when, by means of physical force or show of authority, his freedom of movement is restrained." (*United States v. Mendenhall*, 446 U.S. 544, 553, 100 S.Ct. 1970, 1877, 64 L.Ed. 2d 497 (1980)). "Killing the individual" wrote Judge Merritt, "is the most decisive way to make sure that he does not 'walk away.'" "The panel found that it 'is plainly a 'seizure' of the 'person.'"

Analyzing the development of the statute in question and the Memphis Police Department's interpretation of the statute, which directed officers to shoot felons rather than allow them to escape, the Judge explained that at com-

mon law almost all felonies were capital offenses. Therefore the on-sight killing of a fleeing felon by either the king's men or the townspeople merely accelerated the dispensing of justice.

With the advent of white-collar felonies and felonies committed without the use of physical violence, the common law scheme of things failed to meet the modern forms of serious criminality.

Writing about statutes rooted in the common law that have not kept pace with new forms of crime, Judge Merritt wrote: "A state statute or rule that makes no distinctions based on the type of offense or the risk of danger to the community is inherently suspect because it permits an unnecessarily severe and excessive police response that is out of proportion to the danger to that community." Reasoning from this position, the Court of Appeals for the Sixth Circuit ruled that the Tennessee statute was unconstitutional and also that the father of the deceased youth could properly sue the City of Memphis for the wrongful death of his son.

This decision is probably the single most important criminal procedure ruling to originate from a Federal appellate court this year. In addition to striking down the fleeing felon law in Tennessee, this decision by extension makes unconstitutional any similar Federal or state statute in Michigan, Ohio and Kentucky, which are also covered by the Sixth Circuit.

More importantly, this case rooted in Fourth Amendment search and seizure language is the first stage in what will undoubtedly be a nationwide curtailment of the police officer's discretionary use of

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Taking a long-term lease

Dr. Edward Jackson is led away to the Summit County, Ohio, jail by sheriff's deputies recently after he was sentenced on 60 felony counts stemming from a seven-year spree of sexual assault on Columbus-area women. Judge Frederick T. Williams sentenced Jackson to 191 to 665 years in prison and a fine of \$131,250.

Wide World Photos

Study finds minority hiring failing to make the grade

By SAM WALKER

Employment of black and Hispanic police officers in the 50 largest U.S. cities is falling short of desirable levels. Although several police departments have made significant progress in minority employment in recent years, either as a result of voluntary or court-ordered affirmative action plans, some evidence suggests that layoffs imposed by budgetary constraints have negated recent progress in some agencies.

The importance of racial minority employment by police departments is acknowledged by virtually every expert in policing. Yet despite its acknowledged importance, no attempt has been made to compile baseline data on the extent of minority employment by police depart-

ments. The FBI's Uniform Crime Reports compile data on total employment of civilian and sworn personnel and on male and female sworn officers, but not on employment by race. (Curiously, the UCR did compile employment data by race for a few years in the early 1960's but then stopped.) Periodic surveys by the International City Management Association compile aggregate data on minority employment city size but not for individual cities.

To date, the most complete data are found in the 1978 and 1981 surveys of police administrative practices conducted jointly by the Kansas City Police Department, the Police Foundation and the Police Executive Research Forum. However, both surveys report minority

employment data for only slightly more than 30 of the 50 largest cities.

Similarly, research on the impact of minority police officers is spotty. Studies of police field practices indicate that black officers arrest and use physical and deadly force in a manner that does not differ substantially from white police officers. No studies have been made of the impact of minority group officers on the police subculture, nor has any detailed research taken place on the impact of minority group officers on community perceptions. With respect to minority employment practices, no research has been done on the legal, administrative or political factors associated with the level of compliance with the Equal Employment Opportunity Act by different police

departments.

Surveying the Field

To begin to draw a more accurate picture of employment of black and Hispanic police officers, questionnaires were mailed to the office of the chief of police and the office of the municipal director of personnel (or equivalent position) in the 50 largest U.S. cities in the United States. Of these, responses were received from 47. Data for the three non-responding cities were obtained from the Police Foundation (1982) and the Survey of Police Operational and Administrative Practices — 1981.

Additional long-term data on employment of black police officers over a 30-year period in ten cities were obtained from a variety of earlier reports on police/community relations. Short-term data on employment trends between 1980 and 1983 were obtained by utilizing the 1978 and 1981 PERF surveys.

To assess the level of EEO compliance in a given city, minority employment was then indexed in terms of the percentage of each racial minority group's representation in each city. For analytical purposes a hypothetically ideal level of EEO compliance was assumed to exist where the percentage of minority group officers equaled the percentage of that minority group in the community. Thus, if the population was 30 percent black, a police department with 30 percent black representation among its sworn officers would achieve an EEO compliance index of 1.00. In the same community, a police department with only 15 percent black representation among sworn officers would achieve an index of .50.

The EEO compliance index serves two important functions. First, it provides a meaningful basis for comparing the relative compliance efforts of different departments. Stating the level of minority employment in terms of a raw percentage is relatively useless. To say that 25 percent of the officers in a certain city are black is meaningful only if the black representation in the community is known. (For example, an employment figure of 25 percent would represent an extraordinary EEO compliance effort in Omaha or Seattle, but a very poor effort in Atlanta or Detroit).

The index also allows evaluation of the EEO compliance effort of a police department over time. Saying that the percentage of black officers in a given police department has doubled in ten years is relatively meaningless unless the changes in the general population are known. If, for example, black representation in the community doubled during the same period, the police department made virtually no progress at all.

The index does have several limitations. The percentage of minorities in the city population is not the only potential base for an index. The percentage of minorities in the local work force is one alternative, and courts have generally used this figure in establishing minority recruitment quotas. Since work force participation is generally between 60 and 70 percent of the total population, use of that figure would result in higher index ratings. The choice of which figure to use for the index is governed by alternative perspectives. Use of the total population figure reflects a "service" model and assumes that the police should reflect the composition of the population receiving police services. (In practice, this would not be a completely accurate reflection since racial minorities are over-represented among the clients of police

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17 years of keeping a city cool during the summer

Continued from Page 1

These teens are an effective presence in the city — a presence that was missing before TOP began. They act as a combination of recreational personnel and extra eyes and ears for the police department, which administers the program.

Unlike some other youth groups in the country, TOP members have no power of arrest, undergo no martial arts training, and carry no weapons. They rely more on their "street smarts" and their knowledge of the neighborhood to keep the summer months cool in their areas of responsibility.

Responsibility is something these 16-19-year-olds receive a large dose of in their eight-week summer employment in the program.

"We know we aren't going to change these kids a lot in such a short time," says Sgt. Tom Giammarva of the Rochester police, "but we can expose them to the way the police work — and they sure learn from that."

Sgt. Giammarva administers the program for the Rochester Police Department in cooperation with Rochester Jobs Incorporated, a local organization interested in placing area youths in productive jobs.

"From our standpoint, the main objective of TOP from the very beginning was to provide jobs to low-income, inner-city youngsters," says Thomas Hastings, executive director of RJI. Hastings can well relate to the role of the police in this venture; he was formerly chief of police in Rochester and one of the men originally responsible for starting TOP.

In 1967, the atmosphere in the city between the police and city youngsters was at best tense. Hastings remembers having police cars stoned and fire-bombed during that time of national unrest.

At the same time, Kodak was seeking avenues of positive communication with the city's minority groups. As a result, the company helped found RJI, a coalition of business people, religious representatives and other local leaders who would try to deal with minority employment as a community-wide problem. From this beginning, TOP was conceived.

"We felt the program would be good for the community," recalls Hastings. "It would bring together the police with the inner-city kids they had been fighting with."

As could be expected, the program met with resistance from not only wary street youths, but also from members of the police department. After years of hostile relations with these same teenagers, many officers were skeptical of the value of this new program. A major breakthrough came when Hastings, then a lieutenant, took the TOP concept to a group of gang leaders known as the Soul Brothers.

"I went to meet with them to gain their support of Teens on Patrol. I was allowed to make my presentation, telling them why we thought the program was good for them, the community, and the police," Hastings recalled. "When I finished, they asked me to leave the room



Rochester Police Officer Juan Rodriguez goes over the day's schedule for the TOP program with teen patroller Paula Williams.

Eastman Kodak Company

so they could discuss the idea. After about a half hour, I was asked to return — that's when they told me they would go along with the program."

With the verbal acceptance of the city's gangs, Hastings prepared to have many of the leaders sign up for TOP. "Before I could get the forms out of my briefcase at the meeting, a lot of the kids pulled filled-out forms for the program from their pockets. They were just waiting for peer acceptance."

With that solid base, the program began to take hold; and its members, clad in yellow TOP T-shirts, became accepted and respected in the community.

"We were hoping to change attitudes, foster mutual cooperation and prevent incidents," said Sgt. Giammarva, "and I think we can say we've accomplished that."

Kodak has consistently remained in the background as the program's sole financial supporter, this year con-

tributing \$100,000 to TOP and thousands more in services. The money goes directly to RJI. As to the administration of the program, Hastings says, "From day one, we were given a free hand to run the program the way we wanted to. I think that Kodak's hands-off approach has allowed us to be much more flexible in the things we want to do."

One example of this flexibility was in evidence in the summer of 1981, when TOP members were assigned for the first time to senior citizens complexes and a center for the mentally retarded. "I think we can accurately say that we've cut down vandalism and muggings substantially in these areas with the TOP kids on duty," noted Sgt. Giammarva.

TOP members are on duty in five-hour stints from about 10 A.M. to 8 P.M. in playgrounds, swim areas, senior citizen apartments, city parking garages, and other areas frequented by local youths.

In 17 years, 1,500 teens have been employed during the summer months, and the profile of the program has changed little. It was designed to provide employment and to let some rough-edged city youths see that police are people, too.

"The misconceptions can cause a lot of problems," explained Hastings. "I can remember bringing these kids in for a tour of the police station and having them ask me where the electric chair was."

"They relate to police much better now that they know we're family people — church people, and a lot like them. There's no doubt that TOP has gone a long way in educating Rochester's young people about what we do, and how we try to do it."

These lessons seem to be learned well by many of the program's members. In fact, 11 former TOPs have gone on to become police officers after their experience in the program.

One of the former TOPs, Jakie Strong, grew up in one of Rochester's black neighborhoods and worked in the program for two years.

"During my second year, I really started liking police work," recalls Strong. "I worked in internal affairs, rode with the police, and worked in the technician's unit. I had seen it on television, but now it was right in front of me." Officer Strong now helps supervise the TOP program in the summer.

Obviously, not all of the TOP members turn out to be like Jakie Strong. "Our intent in the program has never been to hire potential police officers, but it has been a nice plus," said Hastings.

The popularity of TOP has grown to the point where it is no longer necessary to advertise for applicants, and the idea has spread to other cities. One adaptation of the program that is of particular interest to Rochester officials is taking place in Tampa, Fla., where the TOP idea has been duplicated almost to the letter. The result has been "phenomenal," according to Capt. Bob Holley of Tampa's Crime Prevention Bureau. Rochester's Sgt. Giammarva added, "They say the program has gone far beyond their expectations and that they're having their best summer ever."

Lines from the front

To the editor:

As with most simple solutions to complex issues, the proposal for a Federally funded "police corps" (LEN, November 21, 1983) does not really address the problem of crime and makes several erroneous assumptions. Those are:

1. Premise — College students who complete a police version of ROTC military training during summer vacations will become suitable police officers.

Reality — The difference between police service and military service is so great as to defy comparison (unfortunately, some police departments still believe otherwise, but that is another problem). The college experience will help to make a good police officer better, but it cannot in itself cause a young person to have either the requisite temperament or dedication to fulfill one of this society's most difficult roles. Suffice it to say that there is a wide gap between the task of leading a military search-and-destroy mission and that of defusing a neighborhood without creating a riot.

2. Premise — If you double the number of police officers in service, there will be

some sort of correlative impact on crime.

Reality — There is no direct correlation between sheer numbers of police and the crime rate, because the more important factor is how we use those whom we have, rather than how many we put in uniform. While we need, of course, some minimum staffing level that reflects an individual community's public-safety requirements (they differ widely by locale, incidentally), a point of diminishing returns is soon reached in just adding personnel with the hope that they will then stumble over more crime. Even if that were true, today's crime rate is not the result of insufficient numbers of police. If anything, it is indicative of insufficient numbers of prosecutors, courts and prisons to process all of the criminals that we are already arresting.

3. Premise — The new police graduates will work for three years, at less than half the pay of regular police officers and no benefits, to pay back their college tuition.

Reality — If we want cops on the take, I cannot imagine a better system for guaranteeing their corruption than having people who never really wanted to be

police officers doing a relatively thankless job while experiencing daily temptations to look the other way and being paid a demonstrably inadequate salary.

All the foregoing sounds bad enough. But the most insidious threat in this whole ill-advised scheme for creating the "police corps" is that it fundamentally contradicts an American tradition of local control over the law-enforcement function, which has long been a basic tenet of our freedom. What we do not need under any circumstances in the United States is for our communities to be policed by an elite officer corps that owes its primary allegiance to a Federal administration.

The logic that dictates military reporting to Washington, D.C., is not transferable to your local police, and any misguided rationale for doing so should be promptly discarded.

D. P. VAN BLARICOM
Chief of Police, Bellevue, Wash.

[Editor's Note: The Police Corps proposal makes no mention of a Federal oversight role in the program.]

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Rape: before and after the f

An interview with sex-crimes training specialist Nancy Hightshoe

Nancy Hightshoe remembers that when she was a little girl she was told, "If I got hurt or scared or lost or if my mom got hurt or if I needed anything, to go to the police."

When she grew up and became one of the first female beat cops in St. Louis County — where women rode alone in patrol cars — she believed that's what police were supposed to do.

That philosophy carried her through nine years on the St. Louis County force, the last three of them as a detective with the department's rape investigation unit.

And, in the end, that desire to help people led her to leave police work.

As a member of the rape squad in 1980, Hightshoe testified before the grand jury so often that the members invited her to a dinner they had at the end of their term. One woman told her, "You're very, very good at what you do — putting people in prison — but you could accomplish so much more if you would speak about rape prevention."

That suggestion sparked Hightshoe's decision to give up police work and become a private consultant and trainer in rape investigation and rape prevention. She formed Rape Prevention Seminars Inc. and put together two training videotapes, "Preventing the

Reality of Rape" and "Rape Investigation."

Now in its third year, Hightshoe's company is picking up steam. For instance, last spring she spoke to about 600 criminal justice students and professionals at the Criminal Justice Center of Sam Houston State University.

She said her decision to move into training came from both the desire to help people that she learned as a child and a firm grounding in reality. "I have an incredibly deep commitment to people as individuals and as loving, caring entities that need to be nurtured, but I have an equally deep commitment to sending assailants to jail."

As a result, Hightshoe stresses not only that a rape investigator must be caring and empathetic to the victim, but must also be professional and competent. She does not ask officers to coddle rape victims, but teaches them to treat victims as responsible members of a team working to convict the rapist.

Hightshoe, who made more than 125 felony sex crime arrests in St. Louis County, also has a master's degree in human relations and administration of justice and a bachelor's degree in psychology. For more information about her training programs, write Rape Prevention Seminars Inc., P.O. Box 31155, St. Louis, MO 63131, or call (314) 965-7708.

'Success feeds on itself. Most officers don't have the chance to solve a lot of rapes, so they don't get the chance to have all that positive feedback.'

wonder, "Could that have happened to me? Could there have been a misunderstanding?" I think we're all, as police officers, familiar with seeing it with juries and we forget that we go into situations with the same kind of prejudices and belief structures that juries have.

LEN: So you're saying that the police officer's attitude is important in developing the case itself?

HIGHTSHOE: Right. Put yourself in the position. You've just been through a frightening experience that was humiliating. It's something you've been afraid of since you were a small child. You didn't know if you were going to live through it. Then someone comes in with a somewhat negative attitude. It doesn't matter how polite the officer is, most evidence shows that the majority of communication is done nonverbally. If he's sending out the nonverbal signals that say, "What were you doing in the bar? What were you doing hitchhiking," he doesn't have to say any of it. If it's coming out through nonverbal behavior — put yourself in the place of the victim. Would you be really open with him? You would answer his questions, you'd tell him exactly what he asked you. One of the things that made me so successful is that I'm very open toward victims, very warm toward them and very accepting. They would just ramble on and on. Except a good investigator is trained to listen to that rambling and get something out of it. I'm sure that 25 percent of the important clues I got came not so much out of questions I specifically asked, they came out of me asking open-ended questions and just letting her talk and talk and talk. That's why that attitude is so important.

LEN: How does an officer go about developing a good attitude?

HIGHTSHOE: Start out by looking at the facts. The facts are that most rape reports are legitimate. Then look at why he or she is in police work. You're in police work to help people and here's someone who really does need the help. I think one of the reasons why I was so successful is that success feeds on itself. The first time I went through a victim interview and suddenly realized the incredible feast of information I got out of her, you can imagine that the next time I did a victim interview, I was better. Everything I had done right the first time, I did better the second time. Most officers don't have the chance to solve a lot of rapes, so they don't get the chance to have all that positive feedback.

First of all, none of my victims ever dropped prosecution. Not one. In my understanding, that's one of the problems that a lot of jurisdictions face. One of the reasons that my victims didn't drop it is because I was right there with them and because I did all the competent, professional things — and I also took them through it a step at a time. You take a woman who has been traumatized, and I've watched officers do this, they'll tell her, "Okay, you have to do this, you have to go with me to get a warrant, you have to go to the grand jury, you have to go to a lineup, you have to go see the prosecuting attorney, this is what might happen in court." Well, you can imagine. We're not two hours away from the rape and he's already beating her up with all these facts. Yes, she does have to do every single one of those things, but let her take them one at a time and be there for her to do it with you or at least support her in doing it. Telephone her and say, "I see you need to go to the grand jury today. Do you need a ride? Is everything

LAW ENFORCEMENT NEWS: As a rape investigator in St. Louis County, you had a conviction rate of 86 percent, compared to a national average of 46 percent. To what do you attribute that?

HIGHTSHOE: It's a long answer, because there is no one thing. It wasn't that I was the right age or the right height — there's no one easy answer. But one of the things that became clear to me is the importance of the officer's attitude and intention. Most police officers are beaten over the head with the idea of their attitude, and I don't beat anybody up in my seminars, that's not the point. The point is if you have a prejudice, you have to either look at it and get rid of it or very forthrightly tell your supervisor for whatever reason, "I cannot handle this case and would you please assign me to something else. I'll take two others to get rid of this one." For instance, if you have a strong prejudice against someone who's very much overweight, or a woman who was in a bar and she's married and left with someone else. Every one of us has our own personal prejudices. Possibly it's race or age — or whatever it is. Maybe her social standing, you just can't work with somebody who's either very, very low class or very, very social society. You've got to look at that and get past it.

Getting reassigned probably won't work very well. I don't think it should require reassignment very often. I think occasionally, though, everybody has occasions that they just can't work for whatever their personal reasons are. I encourage supervisors to reassign people if they get into that kind of a situation.

LEN: What is the correct attitude for a police officer investigating rape?

HIGHTSHOE: I think the correct attitude would be professional, to start with, and secondly, competent. Keep those two things in mind, those are really important. Next is a very positive attitude and, at least in the initial stages of the investigation, very pro-victim. A lot of police officers go in with the attitude that, "She's probably not telling the truth and it's my job to find holes in her story." In reality, a very small percentage of reported rapes are unfounded. The overwhelming majority actually happened, so that negative attitude is unrealistic, in terms of looking at figures and fact. Secondly, it doesn't work in dealing with the victim. She'll pick up on that negative attitude and she'll hold back from telling the officer things. It just has to be very, very pro-victim initially.

LEN: Why do you think some officers approach a rape case with that attitude, when in most other types of crime they are automatically pro-victim and don't assume that the victim is making up the story?

HIGHTSHOE: That's an awfully good question. I'm

not sure what all the answers are. I think some of the reasoning is because rape has just come out of the closet in the last 15 years. I think there were a lot of rapes reported 15 years or longer ago that the police did not know how to handle. It's important to note that society didn't know how to handle it either. So the police were not really any further behind than anyone else. They were just singled out because they were the ones that were supposed to be working with the problem. So consequently they were working in an area that they knew almost nothing about, and frequently did not file for rape, unless the crime was so vicious that it was almost a homicide. There's a big difference between an unfounded crime or a crime that did not occur and a crime that we did not solve. I just think that a lot of officers figured that they didn't solve it and therefore it was really unfounded, as opposed to they didn't solve it because the clues weren't there. Some of it is a holdover from previous days when there were a much smaller percentage of rapes being solved.

Prejudicing the case

LEN: What are some of the factors that are likely to prejudice the way an officer deals with a victim?

HIGHTSHOE: Social standing, cleanliness, age, the victim's marital status, how she got into the situation — for instance, if she's hitchhiking, then he would feel that was wrong and she was warned that she shouldn't have been doing it. Or if she's married and he believes in, particularly for women, the sanctity of the marriage vows and she's in a bar drinking with girlfriends or by herself, especially if she leaves with a man, he may make a moral judgment that would make it very difficult for him to handle that case objectively. Any one of those things can prejudice him.

LEN: Do you find the police sometimes believe that the victim willingly had sex, then reported it as rape because she was spurned or is angry with the man?

HIGHTSHOE: I don't see that attitude too often, but occasionally. One of the things that makes rape a crime where the police sometimes want to grill the victim a little bit is, if it's a male officer, they tend to wonder if they would have been in the same position that she's reporting the rapist was in. Maybe they were on a date with a woman who had had too much to drink, or they'd been in somewhat similar circumstances. It's the same thing juries do. You have a mother on the jury and she's looking at this person who is the assailant and saying, "Well, golly, that could be my son." No, it couldn't be your son and it couldn't be that officer. Your son and that officer wouldn't assault a woman. But they see the case and what they see is a badly beaten up person and they

fact ghtshoe

working out?"

LEN: Isn't it an awful lot of work for an officer to walk the victim through every step of the process?

HIGHTSHOE: In all honesty, I did not coddle my victims. I almost never gave them a ride anywhere. I relied on them to call a relative or a friend or whoever. I did not see that as my function. My function was to work with them and win their case and to help them be as strong about it as possible. I think that's something that people need to know. You don't beat them over the head with everything that needs to be done. You just do a really competent job of interviewing her and then following through on all the clues. She'll follow with you. I would say to them, "Work with me as a team." When somebody was reluctant in the beginning, I would say, "It's okay with me if you want to drop this. It happened to you. You have every right to drop it. I'm not going to argue with you either way. It's your case and if you want and if you want to go with it, I'll work very hard on it. If you don't want to go with it, that's okay too." Once they got into it, like I said, nobody ever dropped prosecution.

LEN: I would think many police officers see rape investigations as trying to persuade a reluctant victim to prosecute and nursing them along through the process, with most of the work being done by the officer with little help from the victim. You're saying the victims respond better to being told they're part of a team and have to pull their own weight?

HIGHTSHOE: I think it helps restore some of their dignity and some of their control over the situation. My experience in the majority of cases, when I got called out right after a rape, it was almost always an 18-hour day. I went out knowing I'd be gone at least 18 hours. If I got to come home at the end of eight or 10 or 12 hours, it was a bonus. It was not what I expected. I went into it committed to staying as long as it took to go through everything that had to be done immediately.

That's another thing. You can't do this in eight hours. Not and keep winning. There are just too many little clues that need to be followed up. I used the telephone a lot. I was very fortunate in that people answered questions for me over the phone. If it required a person-to-person interview, I ran out or they came in to me or a beat cop would do that part of the interview, or whatever it took. But there was no coddling. There was a lot of warmth, a lot of empathy for the victim, a lot of support for them. But they worked very hard. They frequently were with me that whole 18 hours.

Paved with good intentions

LEN: You said an officer's intention was also important. What do you mean?

HIGHTSHOE: Police officers have heard a lot about attitude, and I don't know anyone else who talks about their intention. Intention is one of the most powerful things about our personality. Basically, it's what goal-setting is all about. What I tell groups is to look at what your intention is. If your intention is to have eight hassle-free hours, that's exactly what you'll get out of it. You'll roll up on the scene and you'll say to the victim, "This is really awful, but you dated him before and you're such a nice lady. I hate to have you go to court and have to say that in front of everybody." They'll build it up to the point where that victim wouldn't prosecute that rape for anything. Some of them do it intentionally and some of them unintentionally, but if you want eight hassle-free hours, you won't get a conviction. If you want to make an arrest — if that's really your in-

'If you want eight hassle-free hours, you won't get a conviction. If you want to make an arrest, that's exactly what will happen. It's the whole difference.'

tention — that's exactly what will happen. It's a real nebulous concept, but it's the whole difference. . . . You'll find that if you have a real intention in your life, everything in your life leans toward making that work. That's something that police officers need to know. If it's their intention to win in court, they can do it.

LEN: Being that nebulous, how does an officer discover whether he or she has the correct intentions?

HIGHTSHOE: I think they just have to be honest with themselves. I've worked with people whose absolute intentions were to pick up a paycheck as easily as possible, and I'm sure that every person who reads this article knows people like that. We all do. And it's obvious to anyone working with them that's what they're doing.

LEN: But what about the officer who is really trying to do what's best for the victim and, perhaps out of carrying the empathy too far, talks her out of following up on the case? That person thinks they have the right intention — to do what's best for the victim. Are you saying that isn't really best for the victim?



HIGHTSHOE: I would have to question it. Possibly it's lack of experience for people like that. What they need to know is that going through the criminal justice system is very, very cathartic for the victim. The worse thing about being a rape victim is you lose all control over

your life, and as she goes through the system, each victim starts to gain control back over her life. She would tell me everything that happened to her, I'd start to get some clues going, we'd start to narrow in on what we were looking for in an assailant and how we were building the case. As we built it block by block, her self-esteem would rise a little bit all the time. You can't rob people of their dignity by not letting them have the opportunity to accomplish something with their lives, and many women decided to take this tragedy that had happened to them and turn it into something good for society.

One of the advantages for the victim in going through the system is that depression is anger turned inward, and if she just keeps it all inside of her that tends to encourage depression. Whereas if she channels that anger in an appropriate manner, such as prosecution, it's much healthier for her.

LEN: Are there cases in which pursuing the case is not the best thing for the victim?

HIGHTSHOE: It depends on the case. There are a few cases where it really wouldn't be in the victim's best interest, and generally those are cases where the victim either had been drinking or taking drugs and could not specifically remember what had happened.

LEN: Are there differences in the way officers should handle rape cases in which the victim knows her attacker and those in which she does not?

HIGHTSHOE: If she knows the attacker, the officer will have to be especially careful when asking questions so that they don't appear to be putdowns for her or really challenging what she's saying. He still needs to interview her and get the information to do a competent police investigation, but he has to guard against the tendency to say anything that would indicate that he thought this was just a lover's quarrel or something like that. Really, that kind of a rape is far more psychologically damaging to a victim than a stranger rape because this was someone who, at least at some level, she trusted. At least if a stranger did it, you don't have any personal involvement, really. When it's someone you know, that's a difficult situation.

Gender differences in investigations

LEN: Do you think women should investigate rape rather than men? Do they have an advantage over men in rape cases?

HIGHTSHOE: Absolutely not. I think what's important is that you have someone who is professional, who is competent and empathetic to the victim. In fact, one of the things that a man can do for a victim that a female officer can't is if that victim wants to have a romantic relationship and have children and be married, she's go-

Continued on Page 10



Six of seven men charged in a March 1983 gang rape in Boston cover up as they are brought into court, handcuffed together, for their arraignment.

Wide World Photos

Hightshoe: 'By making small talk, you're greasing the skids for the interview to come.'

Continued from Page 9

ing to have to relate to men. If she can come in and tell a man all these things that have happened to her and have him still treat her with respect and empathy and caring, that just does an awful lot for her self-respect in terms of her feeling like damaged goods, all those ugly feelings that women feel afterwards. The other thing is if there are men in her life and she tells them what happened and they treat her poorly or shabbily about it, she has a standard by which to judge other men.

I don't think gender is the thing to judge whether or not you put someone in your police department in the rape investigation area. I cannot overstress competence. There are just too many incompetents out there — whether it's police officers or ministers or doctors or attorneys or whatever. Of course, to have the competence, they need the training. I think many officers are sorely lacking in the training.

LEN: Many male rape investigators feel embarrassed when they interview victims, and are uncomfortable asking such personal questions of someone they hardly know. Is that a problem for investigators and does it hinder the victim interview?

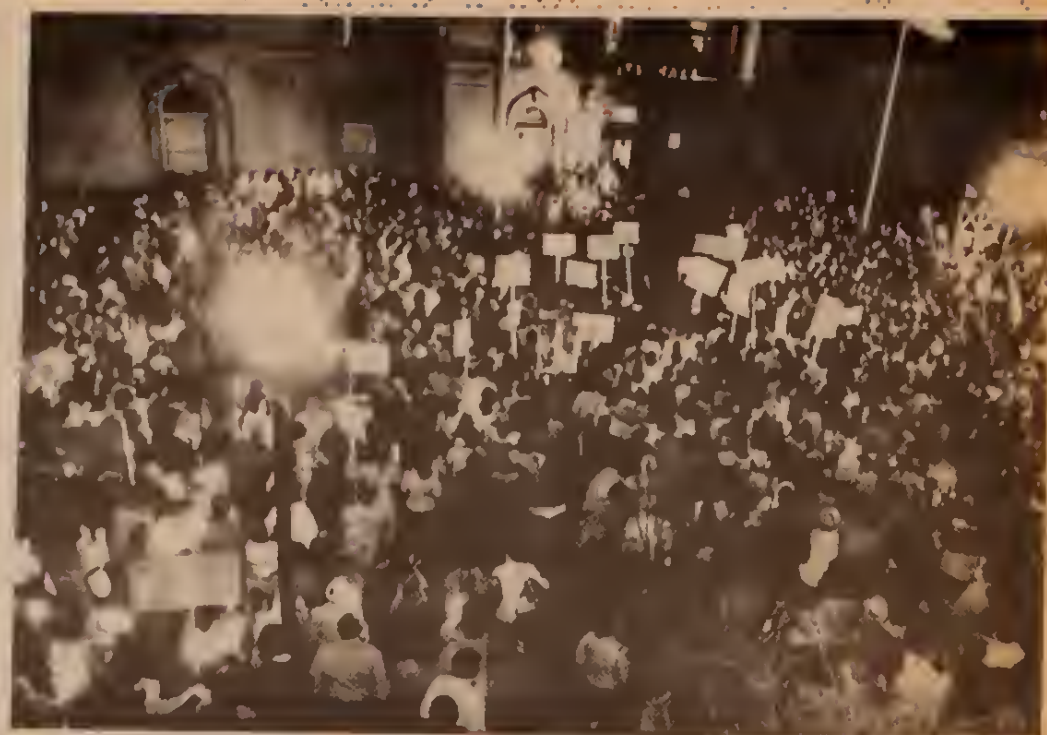
HIGHTSHOE: If he makes it a really personal type of thing. When I give my seminars, we go through all this attitudes and intentions and prejudice stuff and then we go through how to build a relationship with the victim, which means when you're on the scene, there are things to do, like put out a description right away and start out with very easy questions, like "What did he look like? What is your name and where do you live?" Start building a rapport. I was never really embarrassed by the questions, even when I was interviewing male victims, because I never related them in a personal manner to the victim. It's important to understand that I always did it with warmth and genuineness and caring, but I guess I didn't think of it as happening to her body. I asked it and related to it more as discussing an automobile accident or burglary of a home. It was, "What happened next?" and I might tease about it a little bit — and I can get by with teasing a lot easier than a man could. She would say he said something and I would say, "How tacky! No wonder he can't get a date." It would break the ice. I could pull that off. I caution anybody else to be very, very careful. But I never sat there and thought, "Oh, my, he touched this specific woman's breast." I wasn't caught up in the personalness of the physical act to her body. I was very much caught up with her as a person and I related very much to her as a person, but I didn't key in — my psychology didn't key in to relating it specifically to areas of her body.

LEN: I wanted to turn now to the investigation itself. What suggestions do you make for officers to help them in the initial investigation?

HIGHTSHOE: I think the initial response of the officer is a good time for him to build rapport with the victim and for her to see how competent he is. We need to remember that she is placing an awful lot of faith in him and this is a good time for her to observe him working, putting out a flash description of the assailant, gathering evidence, things like that. The hospital exam is the place I did most of my interviewing. I found that worked very, very well. And I used the phone a lot, which also worked very, very well. If I got a clue from the victim while I was interviewing her and she was waiting for her medical exam, I would go out and use the emergency room phone and call the beat cop or call someone in that area and get them to work on it so we did not waste a lot of time.

LEN: Why does the hospital setting work so well?

HIGHTSHOE: Because she has to be there. It's not that it's a better place than anywhere else, it's that I don't waste her time or mine. She's really clear that this is a job and we're working as fast and hard on it as we can. Even at the best times at the hospital, you've still got a certain dead time, a certain lag. What I use that lag time for is interviewing. The more clues I could get, the further we could go. I wouldn't necessarily finish the interview at the hospital, although if there were any sort of injury that we needed X-rays or anything like that,



A crowd of more 2,500 men and women gathers in downtown New Bedford, Mass., for a silent march to City Hall, in protest over the gang rape of a woman at a local bar on March 6 of this year. The demonstrators asked city officials to create a rape crisis center and a commission on the status of women.

Wide World Photos

certainly we did finish in the hospital. Picture this, you've got two people sitting there killing time. One of the people is the investigator who's got a lot of work that has to get done before an arrest is made. The other is the victim who knows that there are all these questions coming. These two people are sitting side by side for an hour or so in emergency waiting. Why not find a quiet spot and start?

LEN: And you think that's the time to set the tone the whole investigation is going to take?

HIGHTSHOE: I think so, yes. Something that I always did is I understood that if there was dead time, it was my responsibility to share with the victim. People talk about not being too personal with the victim. Well, gracious, we're about to talk about something incredibly personal. I'm not a machine and I think it's much easier for her if she knows a little bit about me. I've watched male officers do this. If the victim had

what did he say?"

Another thing is I think officers sometimes go too fast. Ask a lot of open-ended questions and just listen. Some of the best clues I've gotten were things that she gave me while we were just sort of chatting. It wasn't in response to "Where were you when you first saw him?" It was just sitting around talking about how she felt. She might mention something he said in passing, something he did, a mannerism or something that was just a really good clue, a name he mentioned. By this time she's relaxed, she's just kind of letting stuff flow and so she's coming up with clues she hadn't remembered she had.

LEN: What are some of the open-ended type questions you would ask?

HIGHTSHOE: The way I tended to operate in interviews was to ask a specific question and jot down the answers, and then tape my police report while she

'Always call the defense attorney by name — never 'sir.' To call someone else 'sir' denotes respect for him, as though he's better than you are.'

children, the officer might say, "I have a daughter that age. This is a tough age. Aren't they cute now? It's really fun watching them grow. Wait until they get to age of mine, who's now 10." It's the officer's responsibility to make small talk. The victim is not in the position to do it. She's still traumatized, and I believe that by making that small talk, you're greasing the skids for the interview to come.

The most common mistakes

LEN: Are there mistakes that officers tend to make in this stage, besides the attitude things we already mentioned?

HIGHTSHOE: Probably the thing they do most often is they're not thorough enough. I use the philosophy that it's better to have and not need than need and not have. When they're collecting evidence, collect everything. I once held a car for three weeks. That did not make me popular with the assailant's family, but finally, at the end of the three weeks, we got a match on something that absolutely, positively linked it with the crime scene. It took three weeks, though, to keep picking away at it until we could make it work. We all knew that this was the right person, we just didn't know how to prove it in court.

In terms of evidence collection, don't leave anything behind. That's a good time to start building rapport with the victim. If you came to her apartment, ask her, "Did he touch a glass? Did he touch this, did he touch that?" And start listening to her answers, because you're starting to get information from her and you're still asking all those easy questions that she can simply answer before you get into "Where did he touch her and

watched. I never, ever taped the victim, because what happens then is that tape becomes evidence that can be subpoenaed. A lot of times she wasn't really sure and she would say, "I saw him at the bridge." I'd say, "Which bridge?" She'd say, "It wasn't really a bridge, it was really more like this." As she thought about it, she'd clarify in her own mind what she meant. You don't want to take all that into court with you. When you go to court, you want one very clean story. And you don't want to lead the victim. So I would ask questions like, "What happened? Where were you when you first saw him? What did he look like? What was he wearing? Did he say anything to you? Was there anybody there he knew? Did it appear like he'd been there before?" We're still staying with questions that she can feel pretty safe with. I'd jot down any of that that I thought was relevant. Slowly but surely we'd move into, "What happened next? How did you feel?" One of the things that I felt was important was to show her fear, her upset. During the interview, if she had any physical manifestations of that upset, I always put them in — if she picked at her clothes, if she chain-smoked, if she threw up — because that helps establish in court the degree of upset she was in. We're not capable of going to court and saying, "She was really upset." What we have to do is go and show how she was upset.

When you're open to the victim, you'll pick up on that. You'll notice she's picking at her clothes. If the detective is just sitting there, asking yes-no questions and wants to get out in time to make relief, he or she isn't going to pick up on all those nuances. The victim may say something in passing that if the detective's objective is

Continued on Page 14

Layoffs seen rolling back gains in minority hiring

Continued from Page 6

services: as crime victims, as crime suspects, and as users of non-criminal police services.)

Use of the work force figure, on the other hand, would reflect an "employment" model, involving the assumption that an agency's employment practices should be measured in terms of potential applicants.

In itself, the index does not necessarily indicate the presence or absence of discriminatory employment practices. A department with a relatively high index of .80 could still be guilty of discrimination if various screening practices were being used to eliminate minority applicants unfairly. By the same token, an index of .60 does not necessarily mean that existing practices are screening out otherwise qualified minority applicants. A low index may, however, indicate a failure to recruit actively an adequate pool of minority applicants.

In short, the index is useful for analytical purposes. It provides an objective standard for measuring EEO compliance effort relative to the composition of the community, other police departments, and past practices.

The survey also categorized EEO compliance-index figures according to four levels. An index of .75 or higher was considered "high compliance," an index of between .50 and .75 was considered "moderate compliance," an index of between .25 and .50, "low compliance," and an index of below .25 was deemed "non-compliance." Again, the rankings are intended for analytical purposes only and do not suggest that the rate of compliance is acceptable or not acceptable in terms of either employment discrimination law or the perceived needs of the community.

Thus, for example, an index of .51 means that the percentage of minorities on the police force is only half the percentage in the community. Many observers would deem this an unacceptable level. By the same token, an index of .74 may well mean that the percentage of minorities on the police force is equal to their percentage in the work force, which many observers would regard as an acceptable level of EEO compliance.

How the Departments Stack Up

The survey found a mean index for black officer employment of .50, and an index of .47 for Hispanic officer employment. In other words, the level of employment of racial minorities is only one-half of the hypothetical desirable level.

Employment of Hispanic police officers can be seen as both better and worse than the employment level for blacks. Only three police departments have a high level of EEO compliance for black police officers, while eight have a high level of compliance for Hispanics. On the other hand, only one department falls into the non-compliance category for black officers, compared to 11 for Hispanic officers. The data suggest that Hispanics are relatively more successful in obtaining police employment in cities where they are a significant proportion of the general population. Blacks, on the other hand, have been far less successful in translating a sizable presence in the community into police employment. Eight of the 11 police departments found to be at a "non-compliance" level in terms of Hispanic employment are in cities where Hispanics make up 1.5 percent or less of the city population.

In one particular city — Detroit — affirmative action efforts for both black and female police officers have been set back

by layoffs imposed as a result of budgetary constraints. An estimated 85 percent of the 700 officers laid off in the late 1970's were black and/or female. The percentage of black officers fell from 33.7 in 1977 to 25.9 in 1980-81, although subsequent recruitment and rehiring brought the figure back to 30.7 percent in 1983. These data indicate that 81 of the 170 officers (47.6 percent) hired between 1980 and 1981 were black. The data suggest the devastating impact of layoffs on affirmative action when layoffs are governed by a seniority-based principle.

The research conducted by the Center for Applied Urban Research at the University of Nebraska points up several questions that warrant further research:

¶ What factors are associated with compliance with EEO goals?

¶ What is the relative importance of political leadership, police department leadership and litigation?

¶ To what extent are racial minorities represented in the supervisory ranks of police departments?

¶ What is the impact of a relatively high compliance with EEO goals on police performance, the attitudes and behavior of white police officers, and the image of the police department in the community?

¶ What is the full extent of personnel layoffs on the employment of minorities?

¶ How does employment of minorities by police departments compare with other components in the criminal justice system?

These questions are the subject of ongoing research by the Center for Applied Urban Research and the University of Nebraska's Department of Criminal Justice.

(Sam Walker is an associate professor of criminal justice at the University of Nebraska at Omaha. This report is excerpted from *The Review of Applied Urban Research*, published by the university.)

Black and Hispanic Employment in the 50 Largest Cities

City	Sworn Officers	Pct. Black Officers	Pct. of Blacks, Cmnty	Index	Pct. Hispanic Officers	Pct. of Hisp., Cmnty	Index
New York	23,408	10.2	25.2	40	7.2	19.9	36
Chicago	12,472	20.1	39.8	51	3.4	14.0	24
Los Angeles	6,928	9.4	17.0	55	13.6	27.5	49
Philadelphia	7,265	16.5	37.8	44	0.6	3.8	16
Houston	3,629	9.7	27.6	35	8.6	17.6	49
Detroit	4,032	30.7	63.1	49	0.7	2.4	29
Dallas	2,053	8.2	29.4	28	4.6	12.3	37
San Diego	1,363	5.5	8.9	62	7.8	14.9	52
Phoenix	1,560	2.8	4.8	58	9.3	14.8	63
Baltimore	3,056	17.5	54.8	32	0.3	1.0	30
San Antonio*	1,164	4.6	7.3	63	32.9	53.7	61
Indianapolis	936	13.1	21.8	60	0.1	0.9	11
San Francisco	1,957	8.1	12.7	64	8.1	12.3	66
Memphis	1,216	22.0	47.6	46	0.0	0.8	00
Washington, D.C.	3,851	50.1	70.3	71	1.0	2.8	36
Milwaukee	1,438	11.6	23.1	50	4.5	4.1	109
San Jose	915	2.1	4.6	46	17.3	22.3	78
Cleveland*	2,091	11.3	43.6	26	0.2	3.1	06
Columbus	1,197	11.1	22.1	50	0.0	0.8	00
Boston	1,871	13.2	22.4	59	2.1	6.4	33
New Orleans	1,317	20.9	55.3	38	1.9	3.4	56
Jacksonville*	1,263	6.1	25.4	24	0.7	1.8	38
Seattle	1,011	4.1	9.5	43	1.7	2.6	65
Denver	1,379	5.9	12.0	49	13.0	18.8	69
Nashville	969	11.7	23.3	50	0.3	0.8	38
St. Louis	1,763	19.6	45.6	43	0.0	1.2	00
Kansas City, Mo	1,140	10.7	27.4	39	1.5	3.3	45
El Paso	650	2.0	3.2	63	56.9	62.5	91
Atlanta	1,313	45.8	66.6	69	0.6	1.4	43
Pittsburgh	1,222	14.3	24.0	60	0.3	0.8	38
Oklahoma City	662	4.0	14.6	27	0.7	2.8	25
Cincinnati	971	9.1	33.8	27	0.1	0.8	13
Fort Worth	766	5.6	22.8	25	6.6	12.6	52
Minneapolis	672	2.9	7.7	38	1.1	1.3	85
Portland	688	2.7	7.6	36	1.3	2.1	62
Honolulu	1,557	0.7	1.2	58	0.2	5.2	04
Long Beach	637	3.1	11.3	27	5.4	14.0	39
Tulsa	695	4.3	11.8	36	0.5	1.7	29
Buffalo	1,018	8.4	22.6	37	2.0	2.7	74
Toledo	757	18.3	17.4	105	3.6	3.0	120
Miami**	1,051	17.2	25.1	69	39.2	55.9	70
Austin	607	7.0	12.2	57	12.0	18.7	64
Oakland	636	23.1	46.9	49	9.2	9.6	96
Albuquerque	561	2.4	2.5	96	32.7	33.8	97
Tucson	549	3.0	3.7	81	17.3	24.9	69
Newark	1,144	24.0	58.2	41	4.8	18.6	26
Charlotte**	644	22.3	31.0	72	0.0	1.1	00
Omaha	551	8.3	12.0	69	2.1	2.3	91
Louisville	673	10.1	28.2	36	0.1	0.7	14
Birmingham	646	16.8	55.6	30	0.0	0.8	00

* 1980-81 data. Source: Police Executive Research Forum, "Survey of Police Operational and Administrative Practices 1981" (Washington: PERF, 1981.)

** 1982 data. Source: Peggy Tnplett, The Police Foundation.



Leaving the driving to others

A line of Boston police officers moves in on demonstrators to clear the way for a Greyhound bus last month, as the company's striking drivers continued to protest the resumption of the bus line's services despite an ongoing nationwide strike. Wide World Photo



Campaign alert

Police at a recent campaign rally for the Rev. Jesse Jackson shout to the crowd to get down following a report of a man with a gun. The rally at the New Jersey State House in Trenton continued without incident after the report proved false.

Wide World Photo

Dallas deadly-force policies to be reviewed following 13th shooting

Continued from Page 1

patrol after the incident because of death threats he had received.

The criticism of the shooting has been heightened by revelations that Cozby has been involved in seven shooting incidents since 1971, even though his superiors say he was not at fault in any of the incidents.

A few days after the Frost shooting, two other Dallas officers were involved in a shooting in the same neighborhood. The two also had been involved in the fatal shootings of two other suspects earlier this year, fueling allegations that Dallas police are trigger-happy.

As a result, assistant city manager Levi Davis announced the review of deadly force policy and prior shootings. Davis, who will conduct the review of the policy, said he will not limit officers'

authority to use their guns in self-defense, but that he might suggest changes in the way police shootings are investigated.

Police Chief Prince said the department has acted responsibly, but should work to improve community relations.

"We need to work on relations in the black community," Prince said. "We know we are not as well perceived there as in the white community."

The investigation of the Frost shooting will be turned over to the Dallas County grand jury, Prince said.

Minneapolis gets OK to resume PD hiring

A Federal judge has overturned an order that has prohibited the Minneapolis Police Department from hiring officers for the past 10 weeks, but has refused to dismiss a suit alleging employment discrimination against blacks.

U.S. District Judge Donald Alsop decided not to continue the injunction against new hiring, saying the Minneapolis Civil Service Commission and police department showed good faith in recruiting women and minorities for 20 open slots.

But he also refused a request by the commission and the police department to dismiss the suit, which was filed by a coalition of black organizations and two blacks who were rejected by the department.

The suit alleges that the percentage of black applicants rejected by the department is much higher than that of whites who apply. It says that of a total of 515 applications for the department, only 74 were rejected, but of the 27 blacks who applied, 17 were rejected.

Minneapolis Police Chief Anthony Bouza told the judge that if the ban were lifted he would hire three white men, seven white women, an Asian-American woman, four Native American men, two Hispanic men and a black man.

Bouza also stated that he would hire all qualified minority candidates on the present two-year eligibility list.

Armed patrols to reclaim US lands from pot farmers

Much of the Federal Government's rugged, unused land has been seized by marijuana growers who protect their crops with shotguns and other weapons, so the Bureau of Land Management has decided to patrol 119 million acres of isolated Western land with a force of armed rangers.

"The sheriffs can't take care of all the complaints because they've got problems of their own within their county areas," said David Howard, an official with the bureau, in an interview with the San Jose Mercury News.

Howard said the bureau hasn't decided how many agents will be needed or where they will be assigned. He said he now has only five full-time agents to cover 17 million acres of forest land in California and 17 agents spread over 12 million acres of desert land in southern California.

Another reason for creating the armed patrols is that timber rustlers cut down pine trees and oaks, Howard said.

"It's a tragedy when the people's land cannot be used by the people," Howard said. "It belongs to you and me."

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Supreme Court Briefs: When not to shoot at fleeing felons

Continued from Page 5

deadly force to prevent the escape of fleeing felons.

Twelve years ago Chief Justice Burger, who then did not have the backing of the recently added conservative Justices, dissented on the issue of the police officer's right to shoot any known felon, in the case of *Bivens v. Six Unknown Agents*, 403 U.S. 388, 419, 91 S.Ct. 1999, 2016, 29 L.Ed.2d 619 (1971). The Chief Justice wrote: "We, in common with all rational minds, would say that the police response must relate to the gravity and need; that a 'shoot' order might conceivably be tolerable to prevent the escape of a convicted killer but surely not for car thieves, pickpockets or a shoplifter."

This evolving notion that police officers may be justified in shooting fleeing felons to protect life but not merely property was articulated as early as 1962 by the American Law Institute, when that organization promulgated its Model Penal Code. While not the law of any particular jurisdiction until adopted by a state legislature, the model codes represent the most progressive views of the state of the law and suggest directions in which local legislatures should be moving. The product of years of research and drafting by the nation's foremost legal scholars and practitioners, the model codes are often cited by practicing attorneys who argue before state appellate courts what the law should be.

The Sixth Circuit's decision should be seen as handwriting on the wall by those police departments who have fleeing felon statutes authorizing the use of deadly force, and who as a result train their line officers to skillfully "seize" by the use of deadly force. One guideline for police chiefs and department legal officers to consider when formulating new guidelines is the Proposed Official Draft, 1962 of the Model Penal Code. Section 3.07(2)(b) provides in relevant portion: "The use of deadly force is not justifiable... unless (i) the arrest is for a felony, and (ii) the person effecting the arrest is authorized to act as a peace officer or is assisting a person whom he believes to be authorized to act as a peace officer; and (iii) the actor believes that the force employed creates no substantial risk of injury to innocent persons; and (iv) the actor believes that (1) the crime for which the arrest is made involved conduct including the use or threatened use of deadly force; or (2) there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed."

(*Garner v. Memphis Police Department*, No. 81-5605, United States Court of Appeals for the Sixth Circuit, 710 F.2d 240, decision announced June 16, 1983.)

Forfeiture under RICO Law

In a unanimous decision delivered by Justice Blackmun, the Supreme Court ruled that insurance proceeds received as

a result of arson are subject to forfeiture to the Federal government under the Racketeer Influenced and Corrupt Organizations (RICO) chapter of the Organized Crime Control Act of 1970.

The underlying facts that gave rise to the present decision had originated over 10 years ago. Between July 1973 and April 1976 the petitioner in this case put together an arson-for-profit ring consisting of an insurance adjuster, homeowners, promoters, investors and arsonists who practiced their skills in Tampa and Miami, Fla. According to the statement of facts prepared by the Court of Appeals for the Fifth Circuit, recorded at 681 F.2d, at 953: "At first the arsonist only burned buildings already owned by those associated with the ring. Following a burning, the building owner filed an inflated proof-of-loss statement and collected the insurance proceeds from which his co-conspirators were paid. Later, ring members bought buildings suitable for burning, secured insurance in excess of value and, after a burning, made claims for the loss and divided the proceeds."

On June 8, 1977, the petitioner and other members of the conspiracy were indicted for racketeering, conspiracy and mail fraud in violation of 18 U.S.C. §§ 1341, 1962(c) and (d) and 2. Following a jury trial, the petitioner in this case was convicted on all counts. The jury also returned "special verdicts for the forfeiture to the United States, under 18 U.S.C. § 1963 (a), of four payments aggregating \$340,048.09, made to petitioner by a fire insurance company."

The forfeiture verdicts were appealed and ultimately upheld by both the Court of Appeals for the Fifth Circuit and the U.S. Supreme Court. In reaching those decisions, the courts determined that the RICO statute specifically provides that when a person is convicted under the statute, he or she shall forfeit to the United States "any interest he has acquired or maintained in violation of" the RICO statute.

Looking to the Congressional intent of the RICO statute, the Supreme Court determined that the forfeiture statute was designed to effectively take the profit out of illegally gotten gains. Interpreting the statute in its broadest sense, the unanimous Supreme Court ruled, "The language of the statute plainly covers the insurance proceeds petitioner received as a result of his arson activities."

This interpretation of the forfeiture provision of the RICO statute could have far-reaching implications for Federal prosecutors in areas where neighborhoods are being blighted by arson-for-profit rings — and in other respects as well. This timely decision upholds the use of a significant prosecutorial tool in the ongoing struggle to curb the pervasive effect of organized criminality.

(*Russello v. United States*, No. 82-472, decision announced November 1, 1983.)



BURDEN'S BEAT

By ORDWAY P. BURDEN

Playing with numbers: The exclusionary rule's effects as seen in a California study

When police in Massachusetts could not find the correct application for a search warrant, they used an outdated form. Although the warrant itself was proper and the judge who issued it was found to have acted in good faith, the state's Supreme Judicial Court ruled that the evidence seized could not be used and overturned a murder conviction.

The exclusionary rules strikes again.

This case is one of three that the United States Supreme Court is now considering. It's been almost 70 years since the Court ruled that evidence obtained in violation of constitutional safeguards against improper searches and seizures would not be admissible in Federal prosecutions. In 1961, the exclusionary rule was applied to state and local prosecutions as well.

It is a hot subject for debate. "The rule's adherents assert that it deters constitutionally impermissible police conduct and thus protects constitutional liberties," said a report by the National Institute of Justice. "Opponents say the rule frequently thwarts justice by excluding at trial physical evidence that would convict offenders."

Beyond this statement, the report leaves the debating to others. What it does, though, is examine the results of the rule. The report is limited to California and does not contain complete statistics even for that state, yet it answers some pressing questions about the exclusionary rule. It shows that most of the cases in which the rule is invoked are drug cases; that half of those released because of search and seizure problems are rearrested an average of almost three times within two years; and most importantly, that a significant number of people charged with a felony are released because of the exclusionary rule.

The report, "The Effects of the Exclusionary Rule: A Study in California," indicated that almost five percent of felony rejections statewide were for search and seizure problems. In urban areas, that figure is higher — in one Los Angeles office, almost 15 percent. In 1978, the General Accounting Office examined the results of the exclusionary rule on Federal cases and found that in only 0.4 percent of the cases did it have an effect on the result. Apparently, it is a more serious problem at the state and local levels.

There are three ways in which the exclusionary rule affects law enforcement. The first is in cases that are lost or dismissed because the evidence needed to convict was suppressed by the court. The second is in the decision to proceed to court; if police or prosecutors feel that significant evidence will be excluded, they will reject the case. The third way, more difficult to document, is that often an officer will not initiate a police search because he knows anything found would be inadmissible.

The National Institute of Justice said that the exclusionary rule has its greatest impact on drug cases. The report said that a re-analysis of the GAO study indicated that in 64 percent of Federal drug cases, the reviewing prosecutor said that a search and seizure issue was involved.

The report said that 71.5 percent of the felony cases that were rejected in California in 1976-79 because of search and seizure problems involved drug charges. And in Los Angeles County, 32.5 percent of all felony drug arrests referred for prosecution in 1981 were rejected at the initial case review because of search and seizure problems.

It also appears that people who get out of jail via the exclusionary rule are not strangers to police to begin with, and many return to the judicial system soon after. In San Diego County, two-thirds of those whose cases were dismissed because of the rule either had prior criminal records or were arrested later.

Statewide in 1976 and 1977, almost half were rearrested within two years of their release. In fact, of those rearrested, many were arrested more than once; the average was 2.8 times. More than half of the rearrests were for non-drug crimes.

The report, while far from being the last word on the subject, contributes greatly to our knowledge of the problem, a problem that has been hotly debated but not fully understood.

(Ordway P. Burden welcomes correspondence to his office at 651 Colonial Blvd., Westwood P.O., Washington Twp., NJ 07675.)

Coming up in Law Enforcement News:

**A candid interview with
Chief Howard Runyon
of Passaic Township, N.J.,
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JOBS

Program Coordinator, Criminal Justice Training Center. The training center located at Monroe Community College in Rochester, N.Y., is seeking a program coordinator to be responsible for the development, implementation, staffing and instruction of police training programs.

The candidate must be able to develop course objectives and conduct course evaluations. The position requires a bachelor's degree in criminal justice or a related field, with a master's degree preferred. A combination of experience in law enforcement and training in criminal justice is required. Salary is dependent upon qualifications and experience.

Deadline for applications is January 15, 1984. To apply, send resume and salary requirements to: Philip C. O'Sullivan, Director, Criminal Justice Training Center, 1000 E. Henrietta Road, Rochester, NY 14623. An equal opportunity employer.

Assistant/Associate Professor. The Criminal Justice Program at Stephen F. Austin State University is seeking qualified applicants for a tenure-track position.

Primary assignment will be to teach four courses per semester in the law enforcement and/or private security curriculums, and advise student. Additional duties will include university, school and departmental committee service and research and publication activity.

The position requires a Ph.D. or the equivalent (a research-oriented degree). Final-stage ABD will be considered but an earned doctorate is required at time of appointment. A commitment to higher education is re-

quired, as demonstrated by full-time college teaching experience, scholarly writings and research. Law enforcement agency experience or the equivalent is also a requirement.

Salary range is competitive, plus excellent benefits. To apply, send letter of application, updated vita, all official transcripts and three letters of recommendation to: Search Committee Chairman, Criminal Justice Program, Stephen F. Austin University, P.O. Box 6178 — SFA Station, Nacogdoches, TX 75962. Deadline for receipt of applications is January 27, 1984. Starting date for the successful applicant is September 1, 1984.

Police Officers (Lateral Entry). The city of Bellevue, Wash., a community of 75,000 with a police department consisting of 111 sworn officers, is seeking experienced law enforcement officers.

Applicants must be at least 21 years of age, and have a minimum of 12 months experience as a sworn, full-time municipal or county police officer, with at least two years of college.

Salary range if \$1,851 to \$2,226 per month, depending on work background. Top step pay is \$2,372 per month. Benefits include excellent medical, dental and retirement plans; 11 paid holidays and 13 vacation days to start. All uniforms and equipment are provided by the city.

To apply, write to: Personnel Department, City of Bellevue, P.O. Box 1768, Bellevue, WA 98009. Direct telephone inquiries to Lieut. J.D. Egan, at (206) 455-7854.

Public Information Specialist. The Commission on Accreditation for Law Enforcement Agencies (CALEA) seeks a professional to direct its public information and communications activities.

Candidates should have demonstrated experience in (1) the writing, editing and production of newsletters, monographs, speeches and news releases; and (2) planning and executing a wide-ranging public affairs program including responses to inquiries, relations with law enforcement agencies and the press, as well as marketing and outreach. Experience with law enforcement and/or criminal justice is important. Salary is in the high 30's/low 40's.

Submit resume and/or send for a position description (listing duties and responsibilities along with educational and experience requirements) and application form to: CALEA Inc., 4242B Chain Bridge Road, Fairfax, VA 22030. No telephone calls please. An equal opportunity employer.

Chief of Police. The city of Ypsilanti, Mich., population 24,000, is seeking an experienced professional with proven command experience at the executive level. The new chief must possess demonstrated experience as a change agent for the rehabilitation, professional development and management of a full-service department. The department currently has 41 full-time and 7 civilian personnel and operates with an annual budget of \$2.39 million.

Applicants must have a minimum of a related four-year college degree and/or the equivalent in training, education and experience, including police service of 10 years with at least 5 years at the command/executive level. Must have proven leadership, staff and program development experience, as well as department managerial experience. Salary is \$30,498-\$37,091, plus excellent fringe benefits.

Send resume to Douglas J. Fouty, Personnel Director, City of Ypsilanti, Office of Personnel and Labor Relations, 1 South Huron Street, Ypsilanti, MI 48197. Closing date is January 31, 1984. An affirmative action/equal opportunity employer.

Interview: Rape specialist Nancy Hightshoe

Continued from Page 10

to get out or do whatever instead of to win in court, the detective will just let that pass.

Taking it to court

LEN: Going beyond the initial interview, do you have specific suggestions that you make in your seminars on how to carry through from that point?

HIGHTSHOE: Be sure the victim knows how she can get in touch with you. Be sure she doesn't have surprises if you can avoid it. If something happens and the case is dropped — if anything comes up — let her know yourself. Don't let her find out about it by reading the paper. You want to maintain that trust level with her. My experience was in most cases, I worked very closely with the victim for maybe a week, and after that didn't see her again until we went to grand jury. Of course, that was different depending on the complexity of the case and figuring out who did it and making the arrest, but again, it is not a question of this long-term hand-holding. You build a good, solid relationship at the beginning and the relationship carries on of its own accord.

In terms of going to court, you make sure that she is appropriately dressed. Colors that people like are navy and yellow or tan and blue. I frequently had victims dress in those colors because I wanted the jury to like them. If she's somebody who wears a lot of makeup, someone needs to sit down and tell her how to dress appropriately for court. That can be kind of an unpleasant thing to do but it has to be done.

LEN: How do you know that those particular colors work?

HIGHTSHOE: I read "Dress for Success." I figure if that corporation has interviewed hundreds of thousands of people and they found that out, I was going to trust them.

Power is navy blue and white or gray and white. It's the contrast that makes the difference. The police officer ought to walk into that courtroom looking like the attorney. People at first never knew who the attorney was when I went to court, because I almost always dressed that way. Almost always. One time I dressed adorable. I did it on purpose. I had a nice little navy blue dress with an appropriate little lace collar and lace cuffs and my lit-

tle cameo. I looked very sweet, and that was exactly what I wanted to do, because the defense attorney underestimated me. He kept asking me questions and one of the things I'm very good at is long answers and I always put the answer they need for the question at the end of that long answer. By the time he realized that he had been duped by the lace collar, it was too late.

LEN: Do you think that officers need to experiment with kinds of dress? Obviously, a little lace collar wouldn't work for a lot of police officers.

HIGHTSHOE: If you're 6-2 and 240, a lace collar is not going to make it [laughs]. I think that what you need to do is establish a strong relationship with the prosecutor. I always did. They had more education than I did at the time, they had a job to do, and I was impressed and proud. But it was also my case. I never accepted any sort of an idea, that sort of pat on the head and "Okay, officer come back later." I was blessed with good prosecutors who wanted to work closely with me. We always strategized before our cases. We only did the lace collar routine once because we needed to snooker somebody. The rest of the time I wore your basic skirted business suit like any other professional woman and carried a leather briefcase.

I think they need to learn to experiment with how they answer on the stand. Many officers I've seen are strictly yes-and-no-answer people. That's not getting any information out. One of the things I teach the officers is "You were there. The jury is sitting on the edge of their chairs to hear what you've got to say. So for heaven's sake, get it out there."

Another thing I encourage the officers to do is always call the defense attorney by name. I never called the defense attorney "sir." I always called him "Mr. Jones" or "Mr. Smith" or whoever he was. In my opinion, to call someone else "sir" denotes a certain degree of respect for him, as though he's better than you are. I do not like to see police officers putting themselves in that position because that puts them down one from the defense attorney.

Getting the message across

LEN: Do you think police should be involved in trying to increase the number of convictions and prison sentences, as far as influencing legislators to change the

statutes or showing judges that they're really interested in having some tough sentences handed down?

HIGHTSHOE: Absolutely. I think there are two ways the police can accomplish that. The first is public education, good community relations. Giving rape prevention seminars, teaching people exactly what rape is — a crime of aggression, violence and hostility. It is not a sex crime. Let them know how many are committed a year. Let the public know what the problems are.

The other thing that I did rather consistently is that if I felt we were appearing before a judge that I had some question about, and there are judges like this in every jurisdiction, I always invited the two major daily papers to send reporters. Judges are elected officials in most areas. When a judge knows that his actions and decision are going to hit the major daily papers, he's very careful what he does.

LEN: You mentioned the need to educate people on rape prevention, and you have done a lot of work in that area. What should the police be telling the community in regard to rape prevention?

HIGHTSHOE: They need to show the myths. What police departments have done over the last 10 years is use the film, "How to Say No to a Rapist and Survive." It's a good film, but it has a lot of problems in that many women don't like it because of the jovial attitude, which they tend to take rather personally. That doesn't work well. What I do is rather complicated in that I take potential victims through it psychologically, too. I discuss all the myths and what rape really is and different preventatives, ways to handle it, and then teach them that resistance works. You're twice as likely to escape if you resist, but the key is what kind of resistance. I've written a manual that is 20 pages long to go with the movie so that the officer there can stop the film and dialogue with the audience based on the stuff I've done. You can't take an officer and say, "You've read two books. You're an expert now, go do this." But with the film, he can stop the film, fill in from his personal experience, and fill in personal things from that area of the country.

LEN: Do you find that the attitude toward rape on the part of police generally has improved?

HIGHTSHOE: Absolutely. In my opinion, police attitude toward rape is very good and it's getting better.

UPCOMING EVENTS

JANUARY 1984

3-5. **Managing the Polygraph Function.** Presented by the Georgia Police Academy. Fee: \$450.

4-6. **Video Surveillance Techniques.** Presented by Smith & Wesson Academy. Tuition: \$275.

9-10. **Information Security Systems.** Presented by the University of Delaware. Fee: \$325.

9-11. **Vice and Narcotics Control.** Presented by the Criminal Justice Center of John Jay College. Fee: \$175.

9-11. **Police Handling of Juveniles.** Presented by the University of Delaware in cooperation with the Wilmington Department of Police. Fee: \$275.

9-13. **Analytical Investigation Methods.** Presented by ANACAPA Training Courses. Sponsored by the Oklahoma City Police Department. To be held in Oklahoma City, Okla. Fee: \$395.

9-13. **Analysis of Law Enforcement Data.** Presented by the Institute of Police Traffic Management. Fee: \$295.

9-13. **Police Instructor Techniques.** Presented by the Florida Institute for Law Enforcement. Fee: \$125.

9-13. **Defensive Tactics.** Presented by Smith & Wesson Academy. To be held in Springfield, Mass. Fee: \$375.

9-20. **Police Instructor Training.** Presented by the Traffic Institute.

9-20. **Homicide Investigation.** Presented by the Southern Police Institute.

9-20. **Crime Prevention Technology & Programming.** Presented by the National Crime Prevention Institute. Tuition: \$500.

9-March 16. **School of Police Staff and Command.** Presented by the Traffic Institute.

11-12. **Computer Crime: Detection and Investigation.** Presented by the University of Delaware. Fee: \$325.

16-17. **New Wireless Protection Technology: Surveillance-Investigative-VIP Protection Applications.** Presented by Richard W. Kobetz & Assoc., Ltd., To be held in Orlando, Fla. Fee: \$350.

16-17. **Crime Analysis.** Presented by the University of Delaware in cooperation with the New Castle County Department of Public Safety. Fee: \$250.

16-17. **Industrial Espionage: Countermeasures and Intelligence Techniques.** Presented by the University of Delaware. Fee: \$325.

16-20. **Analytical Investigation Methods.** Presented by ANACAPA Training Courses. Sponsored by the Nevada Division of Investigations. To be held in Las Vegas, Nev. Fee: \$395.

16-20. **DWI Instructor Course.** Presented by the Institute of Police Traffic Management. Fee: \$295.

16-20. **Executive Development.** Presented by the Institute of Police Traffic Management. Fee: \$295.

16-20. **Auto-Pistol.** Presented by Smith & Wesson Academy. Fee: \$375.

17-20. **Forensic Science Techniques.** Presented by the Traffic Institute.

18-19. **Aircraft Security.** Presented by Richard W. Kobetz & Assoc., Ltd. To be held in Orlando, Fla. Fee: \$350.

23-25. **Police Interview and Interrogation.** Presented by the University of Delaware in cooperation with the Wilmington Police

Department. Fee: \$275.

23-27. **Analytical Investigation Methods.** Presented by ANACAPA Training Courses. Sponsored by the New Orleans Police Department. To be held in New Orleans, La. Fee: \$395.

23-27. **Breathalyzer Maintenance.** Presented by Smith & Wesson. Tuition: \$425.

23-27. **Basic Criminal Investigation.** Presented by the Florida Institute. Fee: \$125.

23-27. **Firearms Instructor.** Presented by Smith & Wesson Academy. Fee: \$450.

23-February 3. **Police Executive Development.** Presented by the Southern Police Institute.

23-February 17. **Principles of Police Management.** Presented by the Institute of Police Traffic Management. Fee: \$750.

23-February 10. **The Command Training Program.** Presented by the New England Institute of Law Enforcement Management.

25-26. **Dispatcher Stress and Burnout Reduction.** Presented by the University of Delaware in cooperation with Delaware State Police. Fee: \$210.

25-27. **Pressure Point Control.** Presented by Smith & Wesson Academy. Tuition: \$175.

30-31. **Training the Trainer.** Presented by the Criminal Justice Center of John Jay College. Fee: \$150.

30-February 3. **Level I Revolver.** Presented by Smith & Wesson Academy. Tuition: \$375.

FEBRUARY

1-2. **Communication Center Budget Formulation and Implementation.** Presented by the University of Delaware in cooperation with Delaware State Police. Fee: \$210.

1-3. **Handgun Retention Instructor.** Presented by Smith & Wesson Academy. Tuition: \$225.

6-7. **Investigating Organized Crime Homicide.** Presented by the Criminal Justice Center of John Jay College. Fee: \$150.

6-7. **Retail Security and Shortage Control.**

Presented by the University of Delaware. Fee: \$325.

6-8. **Tire Forensics for the Traffic Accident Investigator.** Presented by the Institute of Police Traffic Management. Fee: \$250.

6-10. **Child Abuse.** Presented by the Delinquency Control Institute. To be held in Santa Barbara, Calif. Fee: \$147.

6-10. **Analytical Investigation Methods.** Presented by ANACAPA Sciences, Inc. Sponsored by Virginia State Police. To be held in Richmond, Va. Fee: \$395.

6-17. **Police Supervisory Principles.** Presented by the University of Delaware in cooperation with the Wilmington Department of Police. Fee: \$1200.

6-17. **First Line Police Supervision.** Presented by the Florida Institute for Law Enforcement. Fee: \$150.

8-9. **Food Service Security.** Presented by the University of Delaware. Fee: \$325.

8-10. **Flashlight Instructor.** Presented by Smith & Wesson. Tuition: \$150.

13-15. **Enhancement of Police Managerial Skills.** Presented by the University of Delaware in cooperation with New Castle County Department of Public Safety. Fee: \$350.

13-16. **Improving Police Performance Appraisals.** Presented by the Institute of Police Traffic Management. Fee: \$250.

13-17. **Firearms Instructor.** Presented by Smith & Wesson. Fee: \$450.

13-24. **Criminal Intelligence Analysis.** Presented by ANACAPA Sciences, Inc. Sponsored by Metro-Dade Police Department. To be held in Miami, Fla. Fee: \$695.

13-17. **Firearms Instructor.** Presented by Smith & Wesson. Tuition: \$450.

16-17. **Advanced Techniques for the Juvenile Officer.** Presented by the Criminal Justice Center of John Jay College. Fee: \$150.

22-24. **Officer Survival.** Presented by Smith & Wesson Academy. Tuition: \$350.

23-24. **Developing and Implementing of a Police Stress and Burnout Reduction Program.** Presented by the University of Delaware in cooperation with New Castle County Department of Public Safety. Fee: \$225.

23-25. **Eleventh Annual Conference — Western Society of Criminology.** To be held in San Diego, Calif.

27-March 2. **Management Training Program.** Presented by the New England Institute of Law Enforcement Management.

27-March 2. **Field Training.** Presented by the Florida Institute for Law Enforcement. Fee: \$125.

29-March 2. **Firearms Update.** Presented by Smith & Wesson Academy. Fee: \$100.

MARCH

1-2. **Methods of Interview & Interrogation.** Presented by the Criminal Justice Center of

John Jay College. Fee: \$150.

5-9. **Analytical Investigation Methods.** Presented by ANACAPA Sciences, Inc. Sponsored by the Jefferson County Police Department. Fee: \$395.

5-16. **Advanced Traffic Accident Investigation.** Presented by the Institute of Police Traffic Management. Fee: \$425.

5-8. **Chemical Agents.** Presented by Smith & Wesson Academy. Tuition: \$350.

6-8. **Special Education Workshop.** Presented by the Federal Bureau of Prisons in conjunction with Eastern Kentucky University.

12-13. **Effective Handling of Spouse Abuse & Wife Beating.** Presented by the Criminal Justice Center of John Jay College. Fee: \$150.

12-14. **Jail and Prisoner Legal Issues.** Presented by the Americans for Effective Law Enforcement, Inc. To be held in San Francisco, Calif. Fee: \$325.

12-16. **Instructor Techniques.** Presented by the Florida Institute for Law Enforcement. Fee: \$125.

12-23. **Police Motorcycle Instructor.** Presented by the Institute of Police Traffic Management. Fee: \$1,000.

13-16. **State Police Training Directors.** Presented by the Institute of Police Traffic Management. Fee: \$150.

18-23. **International Homicide Investigation.** Sponsored by Southeastern Ohio Regional Crime Lab, Hocking Technical College. Fee: \$385.

19-30. **Traffic Accident Reconstruction.** Presented by the Institute of Police Traffic Management. Fee: \$550.

21-23. **Managing Police Personnel During Unusual Occurrences.** Presented by the Southwestern Law Enforcement Institute. Tuition: \$150.

26-30. **Police Traffic Radar Instructor.** Presented by the Institute of Police Traffic Management. Fee: \$295.

26-30. **Child Abuse.** Presented by the Delinquency Control Institute. To be held in Los Angeles. Fee: \$147.

26-30. **Firearms Instructor.** Presented by the Smith & Wesson Academy.

26-30. **Level I Shotgun.** Presented by Smith & Wesson Academy. Fee: \$450.

26-30. **VIP Protective Operations.** Presented by Police International Ltd. Fee: \$645.

27-28. **Identikit.** Presented by the Florida Institute for Law Enforcement. Fee: \$25.

29-30. **Implementing Affirmative Action.** Presented by the Criminal Justice Center of John Jay College. Fee: \$150.

Directory of Training Sources and Conference Sites

Americans for Effective Law Enforcement Inc., 501 Grandview Dr. #209, So. San Francisco, CA 94080. Tel.: (415) 877-0731

ANACAPA Sciences Inc., Law Enforcement Programs, Drawer Q, Santa Barbara, CA 93102

Calibre Press, 666 Dundee Rd., Suite 1607, Northbrook, IL 60062

C. W. Post Center, Hillwood Commons Cinema, Greenvale, NY 11548. Tel.: (516) 299-2886.

Criminal Justice Center, John Jay College of Criminal Justice, 444 West 56th Street, New York, NY 10019. Tel.: (212) 247-1600

Eastern Kentucky University, 202 Perkins Building, Richmond, KY 40475. Tel.: (606) 622-1158.

Georgia Police Academy, 959 E. Confederate Ave., P.O. Box 1456, Atlanta, GA 30371. Tel.: (404) 656-6105

Hocking Technical College, Route 1, Nelsonville, OH 45764. Tel.: (614) 753-3591.

Human Service Associates, 17 Westminster Drive, Montville, N.J. 07045. Telephone: (201) 334-7415.

Institute of Police Traffic Management, University of North Florida, 4567 St. Johns Bluff Rd. So., Jacksonville, FL 32216

International Society of Crime Prevention Practitioners, Inc. 1300 Beaubien, Detroit, MI 48226.

Richard W. Kobetz and Associates, North Mountain Pines, Route Two, Box

342, Winchester, VA 22601. Tel.: (703) 662-7288

Lifestyle Management Associates, Inc. 5350 Poplar Ave., Suite 410, Memphis, TN 38119. Telephone: (901) 767-2768.

Massachusetts Criminal Justice Training Council, 1 Ashburton Pl., Room 1310, Boston, MA 02108

McCabe Associates, 564 Broadway, Bayonne, NJ 07002. Telephone: (201) 437-0026.

National Intelligence Academy, 1300-1400 N.W. 62nd Street, Fort Lauderdale, FL 33309.

National Judicial College, University of Nevada, Reno, NV 89557. Telephone: (702) 784-6747.

Pennsylvania State University, S-159 Human Development Bldg., University Park, PA 16802

Police International Ltd., 7297-D Lee Highway, Falls Church, VA 22042. (703) 237-0135

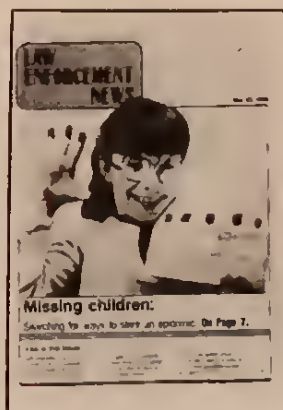
Ross Engineering Associates, 7906 Hope Valley Court, Adamstown, MD 21710

Smith & Wesson Academy, 2100 Roosevelt Avenue, Springfield, Mass. 01101. Telephone: (413) 781-8300.

Traffic Institute, 555 Clark Street, P.O. Box 1409, Evanston, IL 60204

University of Delaware, 2800 Pennsylvania Avenue, Wilmington, DE 19806. Tel.: (302) 738-8155

Virginia Commonwealth University, 816 W. Franklin, Richmond, VA 23284. Tel.: (804) 257-1850.



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